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REPORT
101-17

ACT FOR BETTER CHILD CARE SERVICES OF 1989

APRIL 12 (legislative day, JANUARY 3), 1989.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 5]

The Committee on Labor and Human Resources, to which was referred the bill (S. 5) to provide for a Federal program for the improvement of child care, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1989".

S543-3

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.
Sec. 5. Amounts reserved; allotments.
Sec. 6. Lead agency.
Sec. 7. Application and plan.
Sec. 8. Special rules for use of State allotments.
Sec. 9. Planning grants.
Sec. 10. Continuing eligibility of States.
Sec. 11. State advisory committee on child care.
Sec. 12. Resource and referral programs.
Sec. 13. Training and technical assistance.
Sec. 14. Child care public-private partnership.
Sec. 15. Federal administration of child care.
Sec. 16. Federal enforcement.
Sec. 17. Payments.
Sec. 18. National Advisory Committee on Minimum Child Care Standards.
Sec. 19. Limitations on use of financial assistance for certain purposes.
Sec. 20. Nondiscrimination.
Sec. 21. Preservation of parental rights and responsibilities.
Sec. 22. Child care liability risk retention group.
Sec. 23. Head Start Act authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this Act are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 15(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued, pursuant to a written agreement between the State and an eligible child care provider, by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed or regulated under State law;

(ii) satisfies—

(I) the Federal requirements, except as provided in clause (iii); and

(II) the State and local requirements;

applicable to the child care services it provides; and

(iii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section

18(e)(2), complies with such standards that are applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild, niece, or nephew of such provider, if such provider complies with any State requirements that govern child care provided by relatives.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 6(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

(A) provided during such times of the school day when regular instructional services are not in session; and

(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this Act, other than section 22, there are authorized to be appropriated $2,500,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) IN GENERAL.—To carry out section 22, there are authorized to be appropriated $100,000,000 for fiscal year 1990.

(2) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to paragraph (1) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 5. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one-half of 1 percent of the amount appropriated under section 4(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 4(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 4(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this Act. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655–657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 18(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 4 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this Act if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this Act by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this Act by a State; or

(B) to modify any requirement imposed on a State by any provision of this Act.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this Act.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 7(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 7(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this Act, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 6. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this Act shall designate, in an application submitted to the Secretary under section 7(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this Act to support programs and services authorized under this Act and to oversee the plan submitted under section 7(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this Act with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this Act.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this Act or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 11, the State plan submitted to the Secretary under section 7(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) assist the chief executive officer in making such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this Act with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs;

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 12; and

(8) establish in accordance with subsection (d)(1) several local advisory councils that collectively represent the entire geographical area in the State.

(d) LOCAL ADVISORY COUNCILS.—

(1) APPOINTMENT.—Each local advisory council established under subsection (c)(8) shall be composed of individuals who are collectively representative of the local geographical area for which they are appointed and of the ethnic characteristics of the population of such area. Such council shall be composed of individuals appointed from among the following:

(A) Parents of preschool children.

(B) Parents of school-age children.

(C) Individuals who are child care providers.

(D) The heads of Head Start agencies.

(E) The heads of local public agencies that provide social services or human resources.

(F) The heads of local education agencies.

(G) The heads of local public health agencies.

(H) The heads of resource and referral agencies.

(I) Individuals engaged locally in business.

(J) Local representatives of nonprofit private organizations that provide funds for social services or human resources.

(K) Representatives of groups that engage in private activities relating to providing child care services.

(2) DUTIES.—Each local advisory council shall—

(A) assess the extent to which there is an unsatisfied need for child care services in the geographical area for which such council is appointed;

(B) submit to the lead agency, not less frequently than biennially, a report identifying the results of the implementation in such area of the State plan included in the application submitted under section 7;

(C) recommend to the lead agency the uses for which assistance received under this subchapter by the State should be expended in such area, and with respect to each such use, the amount of such funds that should be so expended;

(D) advise local child care providers regarding the means to collectively obtain training, supplies, and insurance relating to providing child care services; and

(E) otherwise assist the lead agency, and the State advisory committee on child care established under section 11 to carry out their respective duties.

(3) ADMINISTRATIVE SUPPORT.—The lead agency shall provide to such council such funds, and administrative support services (including personnel) directly or by contract, as may be necessary to enable such council to carry out its duties.

(4) CONFLICTS OF INTEREST.—A member of such council may not cast a vote on any matter that—

(A) may result in a financial benefit to such member; or

(B) under Federal, State, or local law would create or appear to create a conflict of interest if such vote were cast by such member.

(5) PUBLIC AWARENESS OF COUNCIL PARTICIPATION.—The Secretary shall require by rule that residents of each geographical area for which a local advisory council is appointed are informed of the opportunity to be appointed to such council.

SEC. 7. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this Act, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this Act and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 6(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 11 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That, to the maximum extent practicable—

(i) the parents of each eligible child who will receive child care services for which assistance is provided under paragraph (4) are permitted to select the eligible child care provider that will provide such services to such child;

(ii) the State will attempt to place such child with the eligible child care provider selected by such parents; and

(iii) procedures shall be established by the State to ensure that the parents of children eligible for a child care certificate under this Act and the eligible child care provider sign a written agreement with the lead State agency concerning the provision of child care services to such child.

(B) That—

(i) all providers of child care services for which assistance is provided under this Act comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this Act and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(C) That procedures will be established to ensure that child care providers receiving assistance under this Act or under other publicly-assisted child care programs comply with the minimum child care standards established under section 18(e)(2) after the expiration of the 4-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(D) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this Act; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 13(a) and 18(d), even if such standards exceed the minimum standards established under section 18(e)(2) by the Secretary unless the State, with the concurrence of the State advisory committee established under section 11, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.

(E) That funds received under this Act by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 17(b) and may not use such expenditures to satisfy the matching requirements of any other Federal program.

(F) That for each fiscal year the State will use an amount not to exceed 8 percent of the amount of funds received under section 5 by the State for such fiscal year to administer the State plan.

(G) That the State will pay funds under this Act to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(H) That resource and referral agencies will be made available to families in all regions of the State.

(I) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) gives priority for provider services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), complies with such standards except as provided in clause (iii);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 18(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this Act.

(J) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(K) That appropriate State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(L) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this Act.

(M) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(N) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this Act to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 8(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 8(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 12 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 13.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 12 percent of the amount allotted to it in any fiscal year for any of the following activities:

(A) Making grants or low interest loans to existing and potential family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants or low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this Act or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing funds for the child care public-private partnership activities described in section 14.

(D) Providing assistance for the establishment and operation of after school child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 18(e)(2).

(ii) To permit the use of funds provided under this Act for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 18(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 18(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(I) Providing assistance for any other activity deemed by the State to be in accordance with the purposes of this paragraph.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this Act, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this Act.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this Act, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this Act, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this Act, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this Act are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this Act and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 8. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 7(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary shall prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 12 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this Act shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this Act.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 7(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this Act shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this Act shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this Act, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this Act;

if such provider does not provide child care services in such facility in accordance with this Act throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this Act.

SEC. 9. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this Act that cannot fully satisfy the requirements of the State plan under section 7(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 7(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 7.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 7(c)(3)(F).

SEC. 10. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this Act after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this Act or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) except as provided in section 18(f), satisfy the minimum child care standards established by the Secretary under section 18(e)(2) of this Act.

SEC. 11. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this Act shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this Act; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 6(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 6(c);

(4) review and evaluate child services for which assistance is provided under this Act or under State law, in meeting the objectives of the State plan and the purposes of this Act;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 6(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this Act, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(g) REPORT.—

(1) IN GENERAL.—Not later than 1 year after establishment of the committee under subsection (a), the committee shall prepare and submit to the chief executive officer of the State involved a report.

(2) CONTENTS OF REPORT.—A report prepared under paragraph (1) shall contain—

(A) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(B) a detailed statement of the findings and recommendations that result from the subcommittee review under subsection (f)(2), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(C) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(D) comments on the minimum child care standards established by the Secretary under section 18(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the committee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in subsection (f)(2).

(h) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this Act.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 12. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this Act shall, pursuant to section 7(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 13. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this Act shall require, not later than 2 years after the date of the enactment of this Act, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) by more than 100 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 14. CHILD CARE PUBLIC-PRIVATE PARTNERSHIP.

(a) ACTIVITIES AUTHORIZED.—Each State using funds as described in section 7(c)(6)(C) shall design activities conducted with such funds to encourage businesses in the State to support or provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds, and children of employees and nonemployees. Such activities may include—

(1) disseminating information relating to—

(A) model child care programs appropriate for implementation by such businesses;

(B) flexible employee work schedules; and

(C) other technical assistance that would enable employers to establish and operate child care programs;

(2) making grants or loans on a competitive basis to assist employers in establishing innovative child care programs;

(3) establishing a demonstration program under which grants are made to local non-profit private organizations to improve and expand child care services in cooperation with employees who contribute to the cost of such improvement or expansion;

(4) making grants to non-profit business organizations to provide technical information and assistance to enable employers to develop and operate child care services; and

(5) encouraging such businesses to participate in resource and referral activities carried out by organizations recognized under section 12.

(b) DUTIES OF STATE.—In carrying out the activities described in subsection (a), the State shall—

(1) consult with the State advisory committee on child care established under section 11;

(2) provide outreach to businesses participating in such activities; and

(3) encourage such businesses to contribute to the cost of carrying out such activities.

(c) BUSINESS PARTNERSHIP TASK FORCE.—The State may carry out subsection (a) in consultation with—

(1) a business task force appointed by the State from among representatives of businesses of various sizes in the State; and

(2) a State entity that administers laws relating to productive economic development.

(d) PRESIDENT'S AWARD FOR PROGRESSIVE MANAGEMENT POLICY.—

(1) ESTABLISHMENT AND AWARD.—

(A) IN GENERAL.—There is established the President's Award for Responsive Management Policy to honor public and private sector employers who have—

(i) successfully implemented in their businesses family-oriented personnel programs and policies responsive to the child care needs of working parents; or

(ii) made significant contributions to child care projects in their communities.

(B) CITATION.—The President's Award for Responsive Management Policy shall consist of a certificate, plaque, or other appropriate citation.

(2) NOMINATION AND SELECTION.—

(A) NOMINATIONS.—Each year the President, acting through the Secretary of Labor, shall solicit nominations for the President's Award for Responsive Management Policy from State and local elected officials, educational institutions, State-based employee or business associations, or other State or local entities.

(B) RECIPIENTS.—The President, in conclusion with the Secretary of Labor, shall select not less than 3 such nominees from each State to receive the President's Award for that year.

(C) REPRESENTATION.—Of the nominees selected from each State to receive such awards, at least 1 shall represent—

(i) a small business;

(ii) an intermediate-size business; and

(iii) a large business.

(3) PRESENTATION.—The President shall present the President's Award each year with such ceremonies as the President may consider proper.

(4) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to carry out the provisions of this section.

(5) DEFINITIONS.—As used in this section:

(A) INTERMEDIATE-SIZE BUSINESS.—The term "intermediate-size business" means a business with at least 101 but not more than 500 employees.

(B) LARGE BUSINESS.—The term "large business" means a business with 501 or more employees.

(C) SMALL BUSINESS.—The term "small business" means a business with not more than 100 employees.

(D) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 15. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this Act;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the child care training and technical assistance programs described in section 13(b)(1); and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this Act.

SEC. 16. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this Act and the plan approved under section 7(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 7(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this Act there is a failure by the State to comply substantially with any provision of this Act;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this Act (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act, and disqualification from the receipt of financial assistance under this Act.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this Act; and

(2) imposing sanctions under this section.

SEC. 17. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 7(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 5 for such fiscal year) equal to the

Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 10 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this Act to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 7(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 5 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 18. NATIONAL ADVISORY COMMITTEE ON MINIMUM CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this Act, a National Advisory Committee on Minimum Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) units of general purpose local governments;

(D) businesses;

(E) individuals responsible for regulating the insurance industry within the States;

(F) religious institutions;

(G) different types of child care providers;

(H) persons who carry out resource and referral programs;

(I) child care, early childhood development, or early childhood education specialists;

(J) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(K) organizations representing child care employees;

(L) individuals who have experience in the regulation of child care services; and

(M) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 20 members of which—

(A) 4 members shall be appointed by the President;

(B) 4 members shall be appointed by the majority leader of the Senate;

(C) 4 members shall be appointed by the minority leader of the Senate;

(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

(E) 4 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with develop-

ing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS–18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this Act.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in any of the States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this Act. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 10, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards for one or more particular geographic areas of the State.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of the steps taken to implement the relevant standards in the relevant geographic areas in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 19. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this Act shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 20. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this Act, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et

seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion, except as provided herein.

(2) DISCRIMINATION AGAINST CHILD.—

(A) IN GENERAL.—A child care provider that receives assistance under this Act shall not discriminate against any child on the basis of religion in providing child care services.

(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this Act because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

(3) EMPLOYMENT IN GENERAL.—

(A) PROHIBITION.—A child care provider that receives assistance under this Act shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this Act, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this Act if such employees are employed with the provider on the date of enactment of this Act.

(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (2) and (3), if assistance provided under this Act, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this Act unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

(5) SEVERABILITY.—If any provision of this subsection or the application thereof to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subsection shall be severable.

SEC. 21. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this Act shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

SEC. 22. CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) PURPOSE.—It is the purpose of this section—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

(b) FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this section.

(2) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—As used in this section, the term "child care liability risk retention group" means any corporation (or other limited liability association)—

(A) whose members are licensed child care providers pursuant to State and local law and who, after the expiration of the 4-year period beginning

on the date the Secretary establishes minimum child care standards under section 17(e)(2), complies with such minimum child care standards that are applicable to the child care services provided by such members; and

(B) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

(c) STATE APPLICATIONS.—

(1) APPLICATIONS.—To qualify for assistance under this section, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including information that meets the requirements of subsection (b) of this section.

(2) CONTENT OF STATE APPLICATION.—

(A) LEAD AGENCY.—The application shall identify the lead agency that has been designated and that is to be responsible for the administration of funds provided under this section.

(B) PARTICIPANTS IN RISK RETENTION GROUP.—The application shall assure that all participants in the child care liability risk retention group are licensed child care providers pursuant to State and local law who, after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), comply with such standards that are applicable to the child care services they provide. In addition, the applicant shall provide for maximum membership of family-based child care providers in the group.

(C) USE OF FUNDS.—The application shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(D) CONTINUATION OF RISK RETENTION GROUP.—The application shall contain provisions that specify how the child care liability risk retention group will continue to be financed after fiscal year 1992, including financing through contributions by the State or by members of such group.

(d) FEDERAL ENFORCEMENT.—

(1) REVIEW OF APPLICATIONS.—The Secretary shall review and approve State applications submitted in accordance with this section and shall monitor State compliance with the provisions of this section.

(2) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(A) that there has been a failure to comply substantially with any provision or any requirements set forth in the State application of that State; or

(B) that there is a failure to comply substantially with any applicable provision of this section,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this section until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

(e) ALLOTMENT TO STATES.—

(1) IN GENERAL.—The Secretary shall make an allotment to each State from the sums appropriated to carry out the provisions of this section using the same allotment formula established under section 5.

(2) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to paragraph (1), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

(f) PAYMENTS.—

(1) ENTITLEMENT.—Each State for which an application has been approved by the Secretary under this section shall be entitled to payments under this subsection for each fiscal year in an amount not to exceed its allotment under subsection (e) to be expended by the State in accordance with the terms of the application for the fiscal year for which the grant is to be made.

(2) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under subsection (e) for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 23. HEAD START ACT AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by striking "$1,405,000,000" and inserting "$1,552,000,000".

I. SUMMARY OF THE BILL

Authorization of appropriations.—$2.5 billion is authorized for fiscal year 1990, with such sums as may be necessary for FYs 1991–1994. In addition, $100 million is authorized in FY 1990 only to fund the new Child Care Liability Risk Retention Fund.

Funds for direct assistance to families.—States must allocate 70 percent of ABC funds to provide direct assistance to low-income working families on a sliding fee scale. Eligible children are those up to age 15 whose family income does not exceed 100 percent of state median income ($32,777 nationwide for a family of four); priority for funds is given to families of very low income. Parents have complete discretion to choose from a wide range of child care services, including relative care, nonprofit and for-profit child care centers, family day care homes, school-based care, and nonsectarian church-based care.

Funds to improve the quality of child care.—States may allocate 10 percent of funds for resource and referral programs; improvements in the states' licensing/inspection requirements; and health and safety training for child care workers. States may use existing resource and referral (R&R) networks as long as referral services are available to families in all areas of the state. Within two years of enactment, all licensed providers shall have 40 hours of health and safety training every two years.

Funds to increase the availability of child care.—States may use 12 percent of funds for grants and loans to establish or expand child care programs; to recruit and train new family day care providers (including a revolving loan fund for improvements to providers' homes); to help communities establish after-school services and programs for sick or homeless children; and to assist businesses with child care programs through a new public-private partnership section.

Minimum national standards for providers receiving public funds.—As a condition of federal assistance, states must require only publicly-funded child care programs to comply with a limited set of minimum health and safety standards within 4 years after they are established (roughly 5½ years after the date of enactment of the Act). The standards are based on those used by the U.S. Armed Forces, the national insurance companies, and the national child care accreditation organizations. The standards will be developed by a National Advisory Committee composed of experts in the field, representatives of state and local government, and members of the business and religious communities. No standard recommended by the Committee may be more rigorous than the strictest in that category which currently exists in any of the states. At the state compliance deadline, any state may request a 1 year variance (with a one-year extension) if the state needs more time to comply with a particular standard in a particular area of the state.

Funds to establish liability risk retention groups.—The legislation authorizes $100 million in FY 1990 for the establishment of Child

Care Liability Risk Retention Groups to increase providers' access to affordable liability insurance through a shared risk pool system.

Church-based child care included.—Non-sectarian church-based child care is fully eligible for assistance under the bill. An amendment adopted unanimously in committee to facilitate the participation of such providers clarifies the protections against religious discrimination embodied in the legislation.

Relative care eligible for funds.—Relative care by grandparents, aunts and uncles is eligible for assistance provided such caregivers comply with state regulations, if any, governing such care.

II. Background and Need for Legislation

History of Federal Child Care Legislation

Traditionally, the Federal government's involvement in child care has been based on the philosophy that government should help parents with work-related child care expenses. The Lanham Act of 1943, the first significant Federal investment in child care services, provided funds to care for the children of mothers working in wartime industries. The Lanham Act programs ended soon after the war. Since then, the Federal government's involvement in child care has mainly been through the Child and Dependent Care Tax Credit, which offers a credit (based on family income) to working families to help offset their work-related child care expenses.

While there are now 31 programs that contain some funding for child care services, there is no federal program whose sole purpose is to provide financial assistance to help families pay for child care. The largest Federal program assisting families with children is the Child and Dependent Care Tax Credit (about $3.9 billion per year). This credit, available to working families with dependent care expenses—including child care—allows these families to deduct between 20 and 30 percent of their dependent care expenses (up to $2,400 for one child and $4,800 for two or more children) from their tax liability. However, because this credit is not refundable, lower-income families with little or no tax liability cannot benefit from the credit. Furthermore, the average credit is less than $350 per taxpayer, hardly sufficient to offset child care costs averging $3,000 per year. In addition, working families with dependent care expenses must pay for care on a daily or perhaps weekly basis. A refund at the end of the year does not help pay for these services when they are needed. Finally, the tax credit mechanism does nothing to improve the supply or quality of care available to parents. There is no Federal program or quality of care available to parents. There is no Federal program which comprehensively coordinates resources to enhance the supply of quality child care in this country.

The next largest expenditure on child care is the Title XX Social Services Block Grant (SSBG), which provides approximately $2.7 billion per year for a variety of social service activities, including child care. However, only 15 to 18 percent of the funds are used for child care nationwide. Furthermore, the funding for this program has been cut drastically over the years (by 20 percent in 1982 alone). All told, budget cuts and inflation have reduced the buying power of the SSBG by one-half since it was first authorized in 1976.

Twenty-eight states spent less in real dollars on Title XX child care programs in 1987 than they did in 1981, even though the number of children under 6 living in poverty rose. Twenty-two states served fewer children in 1987 than they did in 1981.

Head Start is a program for disadvantaged children, designed to provide them with the social, educational, and nutritional services they need for successful development. Even at the current appropriation level of $1.33 billion, Head Start only serves about 18 percent of its eligible population. Furthermore, approximately 84 percent of Head Start programs are part-day, whereas 42 percent of those on Head Start waiting lists work full-time. Provisions in the welfare reform statute adopted in the 100th Congress require mothers of children as young as three to enroll in work, training, or education programs, further straining this already limited supply of care for these disadvantaged children.

INTRODUCTION OF THE ACT FOR BETTER CHILD CARE SERVICES

The purpose of the Act for Better Child Care Services of 1989 is to increase the availability, affordability, and quality of child care throughout the nation. The legislation provides direct financial assistance to low-income and working families to help them find and afford quality child care services for their children. It also contains provisions to enhance the quality and increase the supply of child care available to all parents, including those who receive no direct financial assistance under the Act. By building an infrastructure from which all parents and children benefit while targetting financial assistance to those most in need, this legislation comprehensively addresses the nation's child care needs.

The demand for child care is influenced by many factors. Demographaically, the post-World War II baby boom resulted in record numbers of births between 1946 and 1964. And although the birth rate and fertility rate of women have decreased since 1960, these baby boomers are now having children of their own. As a result, there are now 21.6 million preschool-age children in America, and that number is expected to reach 23 million by 1990. The number of school-age children in 1985 was 41.4 million; this number is expected to increase to almost 45 million by 1995.

Currently, 56 percent of all American women are in the workforce. Eighty percent of these women are in their prime childbearing years. This suggests that the number of mothers in the labor force, is, and will continue to be, substantial. In 1970, 45 percent of mothers with children under 18 (34 percent of those with children under 6) were in the labor force. By 1984, 63 percent of mothers with children under 18 (53 percent of mothers with children under six) were in jobs outside the home. Moreover, in 1985, 84 percent of all Black working mothers, 69 percent of all white working mothers, and 79 percent of Hispanic working mothers worked full-time.

Researchers cite many reasons for mothers' increased labor force participation, among them: (1) the desire to maintain a decent standard of living, often requiring two incomes, and (2) high divorce rates, which have forced increasingly numbers of mothers into the work force. A recent study by the House Select Committee on Children, Youth, and Families reveals 35 percent more two-

parent families would live below the poverty line if the mothers were not employed. In addition, the divorce rate has doubled over the past twenty years, from 10.5 percent in 1965 to 21 percent in 1986. The reality today is that two-thirds of mothers in the work force are either the sole support of their families or have husbands who earn less than $15,000 per year. Most mothers are in the labor force out of economic necessity.

The increased labor force participation rates of mothers, together with the increasing number of children, is resulting in a steady rise in the numbers of children with employed mothers. Today, fewer than one in ten families represent the "traditional" family structure of the mother at home with the children while the father works. The number of preschool children with mothers in the labor force has grown by 75 percent over the past 15 years (from 6 million in 1970 to 10.5 million in 1985). In addition, the number of school-age children (age 6–17) with mothers in the labor force has increased 22 percent over the same period (from 21 million to almost 26 million). Currently, over half of all mothers with infants under one year of age work outside the home. In fact, the most rapid growth in the numbers of children with mothers in the work force is occurring among infants and toddlers.

The most recent projections show that these numbers will continue to rise over the next decade, as trends in both the numbers of children and labor force participation rates of their mothers reinforce each other. By 1995, two-thirds of all preschool children and four out of five school-age children will have mothers in the labor force. The manner in which these children are cared for will be a critical factor in their safe and healthy development. For their parents, finding decent quality child care that is affordable is crucial to their successful and productive employment and their families' economic security.

THE AVAILABILITY OF CHILD CARE

Recent studies indicate that the national supply of child care services is simply inadequate to meet the needs of these children and their working mothers. In 1986, the National Association for the Education of Young Children (NAEYC) surveyed licensed child care programs and found almost 40,000 in operation, with a total capacity of about 2.1 million children. The states' licensing offices reported to NAEYC that approximately 105,000 licensed family day care homes were in operation, with a total capacity of about 435,000 children. Thus, these licensed arrangements could accommodate just over 2.5 million children in 1986, only 24 percent of all preschool children with working mothers.

The lack of adequate child care stretches nationwide. In Des Moines, Iowa, existing child care facilities have space for only 12,000 of the 47,000 children who need care. In Seattle, Washington, the number of children requiring child care is near 23,000, while licensed child care facilities can accommodate only 8,000. Governor Madeleine Kunin testified before the Subcommittee on January 24, 1989 that for 30,000 children in Vermont, child care is needed but not available.

Some employers have started to respond to the child care needs of their employees because they understand the savings in terms of reduced absenteeism and enhanced productivity. However, by early 1988, only an estimated 3,300 of over 6 million employers provided some form of child care support. Almost half of this support is in the form of dependent care accounts, which earmark pre-tax earnings to be spent on dependent care. Less than a quarter of these employers actually provide on-site child care services. In a recent needs assessment conducted by Resources for Child Care Management and Bank Street College, 931 employees from three New Jersey companies with children 12 and under were surveyed on their child care needs. Forty-six percent said that locating child care was a major problem. The availability of decent care was also of major concern. Forty-eight percent said that having an adequate selection of child care was a major problem. Even in the hospital industry, which boasts the largest proportion of employers providing on-site child care, need far outspaces supply. In a 1987 survey of 129 hospitals conducted by the National Association of Hospital-Affiliated Child Care Programs, on-site centers reported serving only 12,336 children while maintaining a waiting list of almost 8,000 children.

This gap between supply and demand becomes acute for infant care. In Washtenaw County, Michigan, for example, demand for infant care exceeds supply by three to one. The 1987 survey of hospitals revealed two out of three infants had to be turned away due to lack of space. Parents of infants who need to work are discovering the difficulty in finding infant care. A September, 1987 article in Philadelphia magazine described this often absurd scramble for care:

> This month, a four-month-old infant girl is starting at the Wooly Bear Day Care School in Lansdale, Pennsylvania. Her father first approached the center about her enrollment several months before she was conceived.

The availability of school-age child care is also in short supply. School-age children are in school for most of the hours the parent(s) work. However, school-age children often require care for a few hours before and after school until the parent(s) return from work, care that is often unavailable. The Census Bureau estimated that, in 1988, over 2 million "latchkey" children spent some part of the day alone while their parent(s) worked. In a recent Harris poll, 51 percent of teachers reported that children's being left alone after school is the most critical factor undermining their school performance. In addition, according to a recent report by the Alan Guttmacher Institute, teen pregnancies often result when young people are left at home unsupervised during after-school hours.

During a hearing by the Subcommittee on Children, Family, Drugs, and Alcoholism, held on March 15, 1988, Diane Adams of Community Coordinated Child Care in Madison, Wisconsin, told a moving story. One parent served by her resource and referral agency, a single father of two, ages 5 and 7, had difficulty maintaining reliable arrangements for his children before and after school and during summer vacation. While he was eligible for a Social Services Block Grant (Title XX) child care program, he re-

mained on the waiting list for 18 months until he became approved for funding. Using a local resource and referral service, he located a family day care provider. Two weeks later, the provider went on vacation and another registered family day care home was located. Within two months, he had to make yet another arrangement when the second provider became ill. This father became painfully aware that decent care, even once located, is often difficult to maintain.

Furthermore, the supply of child care for children with special needs is insufficient to meet demand. Parents of children with handicapping conditions or disabilities experience continual stress due to the lack of reliable, consistent arrangements for their children with special needs. A parent from Baltimore, Mr. Russ Young, testified before the Subcommittee on March 15, 1988. He spoke of the difficulty he faced in finding care for his three-year-old son with epilepsy. Mr. Young was lucky enough to find a family day care provider whose sister had epilepsy and who therefore understood how to handle Andy's periodic seizures. Unfortunately, the extra care Andy required made the provider feel that she was neglecting the other children, and therefore, had to stop caring for him. The subsequent exhaustive search for care resulted in Mr. Young's hiring an in-home provider at almost three times the cost of family day care. As Mr. Young said:

> I think our story illustrates in a particular way, the great need for the ABC bill: there is a terrible dearth of adequate day care options for America's children; but there is a special way in which that stark reality impacts on children with disabilities. With extensive waiting lists, providers are very selective about the children who receive their services and children with disabilities are the first and most easily excluded.

Part of the child care supply problem relates to the low salaries received by providers. Child care providers are the second lowest-paid occupation in the country—second only to the clergy. The Current Population Survey reveals the average child care worker in schools and centers earns about $9,500 per year, while provate providers earn about $4,700. Seventy percent of all child care workers have annual earnings below the poverty line. Over 40 percent of all full-time child care workers and 75 percent of part-time child care workers earn less than $5.00 per hour. These low wages are not a reflection of the lack of education; the average child care worker has over two years of college education. Moreover, only one-half of all child care workers receive health benefits, and one-third do not receive overtime pay. Child care workers' acceptance of such low wages and benefits is truly the largest child care subsidy in the country.

As a result, the turnover rate for all child care center workers nationwide is 42 percent (twice the national average for all other occupations) and 67 percent in family day care homes. The Child Care Employee Project (CCEP) estimates turnover to be as high as 60 percent in some communities. Moreover, once a caretaker leaves a center, positions are often left unfilled. CCEP estimates a 27 percent vacancy rate in some communities, with the average length of

vacancy lasting from 4 to 8 months. An improvement in provider salaries and benefits is the first step toward attracting and retaining qualified child care workers.

THE AFFORDABILITY OF CHILD CARE

The typical cost of full-time child care in this nation—across all arrangements—is $3,000 per year for one child. The cost often runs even higher in metropolitan areas and in all areas for infant care. While this is a large expense even for many dual-earner, moderate-income families with children, low-income families are especially burdened by the lack of affordable care. Dual-earner parents earning minimum wage and working full-time through the year gross less than $12,000 in family earnings annually and are hard-pressed when they must spend over 25 percent of this income on child care for one child alone. If they have two children, child care could cost such families 50 percent of gross income.

There seems to be an unspoken assumption that low-income families prefer to have relations or neighbors—at low or no cost—watch their children. In reality, this more frequent use of informal care probably relates more to low-income parents' lack of child care options for economic reasons than parental preference for informal care. Even given these informal care options, studies indicate that lack of affordable child care is the primary barrier faced by low-income families seeking employment. If informal care were accessible to a large proportion of low-income families, studies would not consistently point to the lack of affordable child care as a major barrier for families of this kind. Furthermore, evidence shows a direct link between the income of the parent and preschool program enrollment. Parents who can afford formal programs, in fact, place their children in them. In 1985, 67 percent of four-year-olds and 54 percent of three-year-olds whose families earned $35,000 or more were enrolled in preschool programs. By contrast, children from very low-income families were one-half as likely to have this opportunity. Less than 33 percent of four-year-olds and 17 percent of three-year-olds whose families had an annual income of less than $10,000 a year were enrolled in such programs.

Parents are held hostage by their ability to pay for child care. The widely-publicized example of the 47 children found in 1987 in a basement of an unlicensed Waukegan, Illinois, family day care home illustrates this problem. Parents were paying $25 per week for this care because they couldn't afford the average cost of care in their area of $75 per week. Fortunately, this situation was discovered before a tragedy occurred. Ms. Linda Grant from Dade County, Florida was not as lucky. In a widely-publicized incident in 1986, Ms. Grant's sons, Anthony, 3, and Maurice, 4, were left home alone one day when her informal child care arrangements fell through. They climbed into a clothes dryer, shut the door, tumbled and burned to death. Their names were on a waiting list of over 6,000 children in Dade County whose parents qualify for and have requested government-subsidized day care so the parents can work, attend training or school.

Ms. Michaelene Michelle, a mother of two from Lansing, Michigan, testified before the Subcommittee on June 28, 1988. She and

her husband both need to work for financial reasons, and she shared with the Subcommittee the difficulty she had finding affordable child care that was not detrimental to her two sons, age 2 years and 13 months. After their first family day care provider hit the older boy, Ms. Michelle started an extensive search using her local resource and referral agency, finally enrolling her older boy in a child care center. Ms. Michelle laments:

> Unfortunately, we cannot afford to put our younger son there, too, so he stays at home with his grandfather.

Families that use informal care are those that have that option available to them, but who might otherwise choose a formal, licensed arrangement, if they could afford it. A child's well-being should not be jeopardized simply because his or her parent cannot afford decent care.

THE QUALITY OF CHILD CARE

For too many parents, the only available care they can afford is of questionable quality. During the Subcommittee's four hearings on child care over the last three years, several parents testified about their personal experiences with unlicensed, poorly-trained child care providers. Ms. Linda Hartshorn told how her son suffered a fatal skull fracture while in the care of an unlicensed family child care provider. Ms. Jane Snead described how her daughter died in a day care provider's home, poisoned by a massive overdose of the provider's anti-depressant drug that the child had ingested over three or more days. Mr. and Mrs. Michael Brooks told how their eleven-month-old son was fatally injured in an unlicensed family day care home when the provider unintentionally struck the child's skull as he was crawling away from the changing table. This provider was not a stranger to the Brooks family; she was a friend who had a two-year-old child of her own. This example, like many others, illustrates how an unlicensed provider with good intentions can cause irreparable harm.

There are many determinants of safe, quality child care. Some—like provider warmth and commitment—cannot be predicted or easily measured. There are many measurable determinants, however, that research has shown to directly affect the safety and quality of care and that therefore should be required of all child care providers and child care environments. These include staff-child ratios, group sizes, provider qualifications, health and safety requirements, and parental involvement and access.

There exists a remarkable degree of consensus among national experts in child care and child development about what these determinants—or standards—of quality are and what the requirements within each category should be. For example, the National Association for the Education of Young Children (NAEYC) and the Child Welfare League of America (CWLA), two preeminent child development organizations, have established model standards of quality that are remarkably similar both in scope and content. The Department of Defense has also promulgated mandatory standards for child care services on military installations which cover many of the same areas as those recommended by these national professional organizations.

While child care experts clearly agree on the key indicators of quality for child care services, the nation's system of state-promulgated regulations is a confused patchwork of divergent standards in many of these categories. Some states have no requirements in one or more of these important categories of standards, while other state standards are set well below those recommended by the national child care experts. S. 5 would build on the experience and expertise of the professional child development experts through the establishment of a National Advisory Committee on Minimum Child Care Standards. The Committee would establish minimum national standards for child care providers receiving public funds in the key categories of quality identified by these organizations. The intent of the legislation is to provide a minimum floor of health and safety for as many children as possible, regardless of their geographic location or family income.

Child care centers

"The National State of Child Care Regulation, 1986," by Gwen Morgan is a composite look at the current state child care standards. With respect to center-based care, forty-nine states and the District of Columbia regulate centers' staff-child ratios, but the ratios for infants range form 1:3 in three states to 1:12 in Idaho. The CWLA believes 1:3 should be the minimum ratio allowed for infants to ensure safe, quality care. NAEYC, the Child Care Food Program (CCFP) (which provides subsidies to center and family day care providers serving meals to children) and Department of Defense (DOD) have concluded that 1:4 should be the minimum. Yet, only 28 states have ratios of 1:5 or better for infants and young toddlers up to age 18 months. Twelve states have ratios of 1:7 or lower for this age group.

Only half the states regulate maximum group sizes for different-age children in child care centers, while the current group size limits among those states that do regulate for infants ranges from 4 to 20. Again, NAEYC and DOD have determined that no more than eight infants (with two caregivers) should be in the same group. This number of infants should be further limited to two if there are children of different ages in the same group.

The professional organizations and the military concur that some basic knowledge of child development is crucial for child care providers. The DOD requires its child care center caregivers to have 40 hours of training before they are qualified, with each branch of service requiring between 24 and 34 hours of on-going training each year. Yet, twenty-two states require no training for teachers before they go to work in child care centers. Twenty-five states require no on-going training for center caregivers, and 7 states have no training requirements of any kind.

Parental involvement and access is another important indicator of quality in child care center programs. Yet only twenty-one states have regulations guaranteeing unlimited parental access to child care centers.

All centers have some health and safety requirements, though they vary widely among states. For instance, 3 states do not require immunizations of preschool children in centers. At least seven states do not require providers to wash their hands after

changing a diaper, even though handwashing is the single most effective method for preventing the spread of diseases. Ten states do not require health training of center staff. By contrast, each branch of the military requires training in first aid and other emergency procedures of all child care providers.

Family day care

Family day care can be a warm, nurturing environment for young children in need of child care. And like center care, family day care situations must meet some minimum level of health and safety for children and caregivers. This assurance is especially needed as family day care arrangements become an increasingly important option for parents. The use of family day care arrangements has increased 50 percent since 1965 and is likely to continue, especially for infants and toddlers.

As with center-based services, there exists a remarkable degree of consensus among child care experts concerning the key indicators of quality for family providers. Testimony before the Subcommittee indicates that the family day care profession itself supports the establishment and enforcement of minimum health and safety standards. In testimony presented to the Subcommittee on June 28, 1988, Sandra Gellert, President of the National Family Day Care Association, stated:

> Defining uniform standards in (these) areas is essential to protect our children and to help assure children's rights to minimal acceptable levels of day care. Family day care providers clearly want that because having clear-cut standards makes the family day care profession more acceptable and recognized.

Unfortunately, many states lag far behind. Currently, 46 states have a mandatory system of regulation for family day care homes. However, 37 states do not regulate some or all of their family day care providers because of the different ways in which the term "family day care" is defined and the subsequent regulation of only those of certain sizes. Forty-two states require no preservice training for family day care providers. Only 13 states have a required preservice training requirement, and only nine states require ongoing training. The DOD requires 24 hours of training for its family day care providers on military installations.

The tragic consequences of inadequate training were relayed to the Subcommittee on January 24, 1989, by Ms. Cheri Robertson, a mother from Temecula, California. Her son is partially blind and partially paralyzed after being shaken by a family child care provider. Ms. Robertson said that the provider shook the baby "because she didn't know that shaking could hurt him. A small amount of education could have prevented my son from living a handicapped life."

The National Family Day Care Association (NFDCA) recommends a maximum group size in family day care of no more than six children. The federal Child Care Food Program (CCFP) requires a maximum group size of six for providers receiving funds under the program and which are not regulated by their states. The DOD standards for child care on military installations also require a

maximum group size in family day care homes of no more than six. Despite this consensus, 19 states allow more than six children in a family day care home. Furthermore, while the CCFP requires no more than three infants and the DOD requires no more than two infants for their family day care providers, only 33 states limit the number of infants in a home to three and only 22 states limit the number to two.

There are many examples of tragedies waiting to happen where unlicensed and poorly-trained family day care providers care for too many children at one time or care for them in unsafe settings. For several days in 1987, the nation followed the saga of Jessica McClure, who fell down a well in Midland, Texas, and was trapped for over two days. What few people knew at the time was that Jessica was being cared for in an unlicensed family day care home in which one adult was watching 8 other children. In July, 1988, two infants drowned in a bathtub in a family day care home in Battle Creek, Michigan, in which one unlicensed provider was caring for 13 children.

Many states also lag far behind acceptable standards of basic health and safety for children in family day care situations. Ten states do not have an immunization requirement for children enrolled in family day care homes. Moreover, thirty-five states do not guarantee parents unlimited parental access to family day care homes, another key safeguard of the quality and safety of care.

During the Subcommittee's hearings on child care in 1987, 1988, and 1989, extensive testimony was presented on the critical need for an improvement in the quality and safety of child care throughout the nation. Quality is not an issue which affects the physical and mental well-being of our children alone. It is also critical to the peace of mind and productivity of parents in the workforce and to the cost and availability of child care throughout the nation. Mr. Harry Freeman, Executive Vice President of American Express Company, testified before the Subcommittee on March 15, 1988. He said:

> [child care is] a national issue that connects directly to the broad challenge that's been on many minds—that of "national competitiveness" * * *. If we are fully to restore this nation's economic vigor, then we must ensure that job-holding parents throughout the country go to work knowing their children are well cared for * * * [U]nless we get greater consistency of [health and safety] standards nationwide, we will inhibit the mobility we need to adapt to the structural economic changes that are apparent in every advanced industrialized nation.

A 1986 Fortune magazine survey of 400 parents of children under 12 echoes this statement, concluding that dissatisfaction with child care is the most reliable predictor of workers' absenteeism and unproductive work time. Businesses can benefit from providing some support for their employees' child care needs. Employers are more likely to invest in child care if there are consistent, minimum health and safety standards that they feel confident will ensure the quality of child care. Like the Federal government, the

private sector cannot afford to support or condone potentially dangerous care.

Governors William Donald Schaefer of Maryland and Madeleine Kunin of Vermont drew a similar connection between increased availability of child care and a strong state economy. At the Subcommittee hearing on January 24, 1989, they testified that major improvements in the child care system are necessary if states are to maintain well-qualified workforces and if they are to assist their citizens in making the transition from welfare to work. They argued that federal health and safety standards are a critical component to child care legislation.

Hearing testimony on the need for national minimum health and safety standards reflects the views of the nation at large. This issue was addressed in a national poll of 901 registered voters, both Democrats and Republicans, in June of 1988, conducted by Marttila and Kiley, Inc. Seventy-five percent of those responding believe the Federal government should establish basic minimum health and safety standards, including 83 percent of working mothers and 74 percent of voters with no children. In April 1989, a nationwide poll of 4050 adults conducted by Louis Harris and Associates found similar views. Eighty-five percent of parents and non-parents are convinced that "the federal government should establish minimum regulatory standards necessary to ensure child care of an acceptable quality".

There is also evidence that improvements in the quality of child care in America can have a positive impact on the cost and supply of such services by reducing the cost and increasing the supply of liability insurance for providers. The current "crisis" in child care liability insurance stemmed, in part, from a downturn in the insurance cycle, and in part from the perception that child care is a risky business. Consequently, insurance policies were cancelled and insurance premiums on remaining policies increased.

The establishment of predictable and measurable standards of quality for child care prorgrams would help insurance carriers assign risk with greater confidence and may help to make insurance more accessible at a lower price to a broader range of child care providers. Arthur Nielsen, Senior Vice President of CIGNA Corporation, testified before the Subcommittee on this point on January 24, 1989. CIGNA Corporation is a leading provider of insurance, including property and liability insurance for child care centers. Mr. Nielsen testified that the requirement of minimum standards would reduce premium costs for providers and generally increase their access to liability insurance.

CONCLUSION

The demographic revolution in the American workforce is having a profound effect on the lives of American families. These changes call for an active Federal role in child care. Unlike the temporary circumstances leading to the Lanham Act in 1943, today's increase in female labor force participation rates, and the increase in the number of children with employed mothers will continue well into the future. The magnitude and the complexity of the child care

crisis call for policy measures that are equally comprehensive and long-term.

It is the view of the Committee that the Federal government's most crucial role is to strengthen the child care infrastructure in America to improve the quality of services and make them more available and more affordable. The Act for Better Child Care Services accomplishes this goal through a combination of direct assistance to parents, standards and training to improve quality, and programs to increase the supply of various types of child care options. Within the framework of this legislation, the states are provided with funding and flexibility to enable them to make these necessary improvements. For parents who cannot afford minimally safe child care options, parental choice is just a myth. The direct financial assistance to low-income and working families will help ensure access to the child care services these families require.

III. History of the Legislation

S. 5, a bill to provide for a federal program for the improvement of child care, and for other purposes, was introduced by Senator Dodd on January 25, 1989, and was referred to the Senate Committee on Labor and Human Resources. A hearing on the bill was held by the Subcommittee on Children, Family, Drugs and Alcoholism on January 24, 1988 on the subject of child care quality and the role of minimum federal standards in quality improvement. This hearing was a follow-up to hearings on the Act for Better Child Care Services of 1988 (S. 1885) held by the Subcommittee during the 100th Congress on June 11, 1987, March 15, 1988, and on June 28, 1988.

On March 15, 1989, the Chairman of the Committee on Labor and Human Resources, Senator Kennedy, convened an executive session of the Committee on Labor and Human Resources to consider S. 5. On that day, an amendment in the nature of a substitute was adopted and reported, by a roll call vote, 11–5, by the Committee on Labor and Human Resources.

IV. Hearing

JANUARY 24, 1989

A hearing on S. 5 was held by the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources, on January 24, 1989. The following individuals provided testimony:

William Donald Schaefer, Governor, State of Maryland;
Madeleine Kunin, Governor, State of Vermont;
Scott McCallum, Lieutenant Governor, State of Wisconsin;
Jane Snead, Parent, Springfield, Virginia;
Linda Hartshorn, Parent, Seward, Nebraska;
Cheri Robertson, Parent, Temecula, California;
Deanne Dixon, Parent, Montgomery County, Maryland;
Dr. Richard Clifford, Professor, University of North Carolina, Chapel Hill, North Carolina;
Dr. Lawrence Schweinhart, Director, Voices for Children, High/Scope Foundation, Ypsilanti, Michigan;

M.A. Lucas, Chief, Child Development Services, United States Army, Washington, D.C.;

Marilyn King, Manager, Equal Opportunity Program, Hallmark Cards, Inc., Kansas City, Missouri;

Arthur Nielsen, Senior Vice-President, Cigna Corporation, Philadelphia, Pennsylvania;

Gary Bauer, President, Family Research Council of America, Inc., Washington, D.C.

V. Committee Views

STATE ALLOTMENT FORMULA

Section 5 requires the Secretary to reserve an amount not to exceed one half of 1 percent of appropriations for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau. The Secretary will also reserve an amount, not less than 1.5 percent and not more than 3 percent of total appropriations, for Indian children. The Secretary may, using funds reserved under the Act for Indian children, enter into a contract with, or make a grant to an Indian tribe or tribal organization for a period of 3 years, to plan and carry out programs and activities that are consistent with the Act. In the case of an Indian tribe in states other than Oklahoma, Alaska, and California, these programs will be carried out on the Indian reservation for the benefit of Indian children.

The remainder of funds are allotted to the states through a formula based on three factors: (1) the ratio of the number of children in the state who are less than 5 years of age to the number of children in all the states who are less than 5 years of age; (2) the ratio of the number of children in the state who are receiving free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the states who are receiving free or reduced price lunches under the program; and (3) an "allotment percentage" determined by dividing the national per capita income by the per capita income of the state.

The Committee has adopted this formula because it takes into account both a state's ability to meet its child care needs relative to the other states, as well as the extent of a state's child care needs relative to the other states. The "young child factor" in the formula is used to detemine the relative need in the state for child care for pre-school age children. The "school lunch factor" is used as an indicator of child poverty in a state, as well as the need for child care services for school age children, relative to the other states. High young child and school lunch factors will have a positive impact on a state's allotment; states with a relatively large proportion of children in need of child care and of children in poverty will receive a larger share of Federal funds under the Act.

The state allotment formula also factors in a state's per capita income relative to that of the other states, to determine the relative ability of parents in the state to meet their child care needs and the relative ability of the state to raise tax revenues to fund child care programs. A high "allotment percentage" (the national per capita income divided by the state's per capita income) will

have a positive effect on the amount of a state's allotment while a low allotment percentage will mean a relatively smaller share of funds provided under the Act. As in the federal revenue sharing program, a weight is placed on the allotment percentage in order to ensure that a state's share of funds is not based too heavily on the state's tax base. The weighting limitation provides than an allotment percentage greater than 1.2 be considered 1.2 and those below .8 be considered .8. In this way, the state's per capita income is balanced by the state's need for child care services and number of children in poverty, all relative to income and need factors for the other states.

The following description illustrates how the state allotment formula would allocate assistance under the Act. The state of Connecticut, for example, has a per capita income of $40,677 for a family of four; the national per capita income is $32,777 for a family of the same size. Thus, the "allotment percentage" for Connecticut is .8 ($32,777 divided by $40,677). Connecticut has 1.10 percent of the nation's children under age 5, and .75 percent of the nation's children receiving school lunch subsidies.

Half of the Act's state allotment formula is based on the product of the state's share of the nation's children under age 5 and the state's allotment percentage. For Connecticut, this would be .88 percent (1.10 [the "young child factor"] x .8 [the allotment percentage]). The other half of the formula is based on the product of the nation's share of children receiving school lunch subsidies and the state's allotment percentage. For Connecticut, this would be .6 (.75 [the "school lunch factor"] x .8 [the allotment percentage]). Thus, Connecticut's share of funds under the Act is the average of the two components of the formula, .88 and .6, or .74 percent of the total national allotment.

Section 5 also, permits the Secretary to reallot any portion of a state's allotment that he or she determines is not required to carry out the state plan approved under section 7(d) to other states in proportion to the original allotments to the other states.

STATE LEAD AGENCY

Section 6 requires the chief executive officer of each state to designate a lead agency to administer funds received under the Act and to coordinate ABC-funded services with the services of other state and local agencies that provide services to children. The Committee intends for states to have the flexibility to determine which agency is most appropriate to administer the funds and services provided for under the Act.

The lead agency, in consultation with the state advisory committee on child care established under section 11, will develop the 4-year state plan for submission to the Secretary in order for the state to be eligible for funds under the Act. The lead agency will also have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the state to carry out the purposes of the Act. The lead agency's main responsibilities are to assess child care needs and resources in the state and the effectiveness of existing child care services and services for which assistance is provided under the Act

in meeting such needs. Additional duties include the development of a plan designed to meet the need for child care services in the state for eligible children, including infants, preschool children, and school-age children, with special attention to the needs of low-income children, migrant children, children with handicapping conditions, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency. The lead agency will also hold annual hearings in each region of the state, in order to provide an opportunity for public comment on the provision of child care services in the state under the state plan. The lead agency is required to make periodic reports to the Secretary, to coordinate the provision of services under the Act with other children's programs and services funded by federal, state, or local governments. Finally, the lead agency will identify resource and referral programs for particular geograhical areas in the state to ensure that all families will have help in finding child care services, regardless of their geographic location in the state.

STATE PLAN

Section 7 outlines the components of the 4-year plan which states are required to submit to the Secretary in order to be eligible for assistance under the Act. The purpose of the plan is to establish long-range policies and procedures which the states will use to develop a comprehensive, quality child care infrastrucutre in each state. The state must ensure that providers receiving assistance under the Act comply with all state and local licensing requirements and, within four years after they are established by the Secretary, with the minimum national health and safety standards provided for in section 18. The plan must set forth policies and procedures to ensure that parents are permitted to select the most appropriate eligible child care provider for their children. In addition, the plan must provide that funds will be distributed to all types of licensed child care providers in the state and that funds will be distributed equitably to both urban and rural areas. The state must also ensure that child care services are available to children with unique needs, including those with handicapping conditions and those whose parents work nontraditional hours. The state plan must also provide for the establishment of sliding fee scales for eligible children and for procedures designed to ensure parental involvement in the planning and evaluation of child care serivces in the state.

As part of the planning requirement, the state must ensure that funds received under the Act will be used to supplement, not to supplant, the amount of Federal, state, and local funds expended for the support of child care services. However, states may use existing state expenditures in support of child care services to satisfy the 20 percent state matching requirement included in section 17. The Committee intends for this provision to encourage states to continue to invest state and local funds in child care services, without imposing a penalty on those states that have already recognized the need for a state commitment to child care.

DISTRIBUTION OF ASSISTANCE UNDER THE STATE PLAN

The 4-year plan must also ensure that the state will use at least 70 percent of the funds received under the Act to provide direct assistance to families to help pay for child care services. The state may use up to 10 percent of the funds for activities designed to increase the quality of child care services. These activities include the resource and referral programs established under section 12, the monitoring and enforcement of state licensing requirements, training and technical assistance in accordance with the requirements of section 13, and procedures to ensure that adequate salaries are paid to child care personnel. The state may use up to 12 percent of its allocation under the Act for activities to increase the availability of child care, such as grants and low interest loans to child care providers to establish new child care programs and to help them meet federal and state health and safety standards, the Public-Private Partnership activities described in Section 14, state-based revolving loan funds for new family day care providers, programs for after-school care and for the care of sick and homeless children. Among these activities, the state must give priority to the licensing and training activities and need only make "reasonable progress" in the other quality/availability areas. Finally, the state may use up to 8 percent of its allotment each year for state administration activities.

DIRECT ASSISTANCE FOR CHILD CARE SERVICES

Section 7(c)(4) of the Act requires states to use at least 70 percent of their allotment each fiscal year to provide assistance directly to low-income and working families to help them pay for child care services. Priority must be given to families of very low income and assistance must be provided on a sliding fee scale basis that ensures that families' contribution to their child care costs increases as their incomes rise. The Committee believes that the lack of affordable child care for low-income families and the long waiting lists for such care throughout the nation make it imperative that Congress reserve a significant portion of funds to help families pay for services. Without direct asistance to pay for safe child care, low-income families have no real choice with respect to child care options. The Committee also expects this direct assistance will help to increase the supply of child care throughout the nation because many low-income families now on waiting lists for a limited number of publicly subsidized slots will have the resources to pay market rates for care.

Beyond the requirement that states give priority to low income families, the Committee has included other provisions to ensure that assistance flows to those most in need. Providers receiving ABC funds must provide services to children of families with very low incomes and states must give priority for assistance to providers which themselves give priority to low-income children. In addition, states must use at least 10 percent of the 70 percent of funds reserved for direct assistance to expand from part-day to full-day low income programs like state-subsidized preschool, Head Start, Chapter I preschool, and preschool for handicapped children. The majority of these high quality programs currently serve low-income

families only on a part-day basis, forcing working parents to shift their young children among several caregivers in a single day.

By providing states with the flexibility to allocate direct assistance through different funding mechanisms, the Committee believes low-income families will have a broader range of child care options. These options are currently too often limited to a few types of publicly subsidized programs. States may provide assistance to parents through certificates that are distributed directly to parents, through contracts with or grants to eligible child care providers, or through grants to units of general purpose local government that agree to enter into contracts with eligible child care providers. This range of options will enable parents to choose child care services which best meet their families' needs. In addition, states will be able to build on their existing subsidized child care systems which currently use a mix of contracts, grants and certificates. The Committee believes that if direct assistance under the Act were limited to a particular type of funding mechanism (i.e. certificates), state flexibility and parental choice would suffer. The Act permits states to use only certificates if they so choose, a decision which the Committee believes is best left up to the states.

The Committee has also sought to ensure that parents have a wide range of choices in selecting child care settings that best meet their families' needs. For this reason, all types of licensed or regulated providers are eligible for assistance under the Act including center-based care, family day care, group home care, and relative care. Eligible providers include non-profit and for-profit organizations, schools, community-based organizations, units of general purpose local government, employers, close relatives of eligible children who are at least 18 years of age, and churches and synagogues that offer nonsectarian services. The Committee wishes to emphasize that the Act is not intended in any way to favor or encourage one form of child care over another.

In keeping with the Committee's desire to enhance parental choice, especially for low-income families, a provision has been included to ensure that providers serving children eligible for assistance under the Act receive adequate reimbursements for their services. As part of the state planning requirement, states must ensure that child care services funded under the Act are reimbursed at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this Act or for child care assistance under any other federal or state program. Currently, states may limit reimbursements for publicly funded care to $6 per day for child care services that may actually cost $10 per day. This has made child care providers reluctant to serve low-income children because they must make a financial sacrifice if they accept public funds. The Committee believes the Act's "comparable payment" requirement will ensure that families receiving assistance under the Act are not subject to discrimination in admissions by child care providers. In this connection, the Committee also believes it is important to recognize that child care services for certain types of children are more costly than for others. Thus, the state plan must also ensure that higher reimbursements are available for the care of infants, for programs which provide compre-

hensive child care and family support services to adolescent parents, and for the care of handicapped children.

STATE ENFORCEMENT OF LICENSING AND REGULATORY REQUIREMENTS

The Committee believes that enforcement of child care licensing and regulatory requirements should continue to be a state responsibility. The Committee also believes that states must actually enforce these requirements if federal, state, and local health and safety standards are to have their intended effect. Unfortunately, the rapid growth of child care programs in the recent past has been accompanied by a reduction in the number of qualified staff available to license and monitor child care programs.

For this reason, states are authorized to allocate funds under the Act to implement several provisions designed to strengthen their licensing and enforcement operations as well as parents' ability to monitor child care programs. Within four years' after the date of enactment of the Act, the states must have an adequate number of trained personnel to perform inspections of licensed and regulated facilities. In order to ensure that proper inspection standards are applied, the inspectors should—to the maximum extent feasible—have responsibility exclusively for children's services. There will be not less than one unannounced inspection per year of each center and each group home in the state and not less than 20 percent of the licensed and regulated family day care providers in the state will be inspected each year. Inspections must be conducted during the normal hours of operation for family day care homes in the state.

In order to enhance parental involvement in program monitoring, the Act requires that licensed and regulated child care providers make written policies and program goals available to parents and that parents be guaranteed unlimited access to child care programs. The Act also requires states to implement procedures to address parental complaints and to prohibit operators of child care facilities from taking action against employees who report licensing violations. States must implement a consumer education program to inform parents and the general public about licensing requirements and complaint procedures and require child care providers to post the telephone number of the agency that parents may call to report licensing violations. Finally, the states must maintain a record of parental complaints and make information available to the public concerning substantiated parental complaints.

RESOURCE AND REFERRAL ORGANIZATIONS

The Committee notes that the search for quality and affordable child care is a long and difficult process for many parents. In many communities, parents must rely on the yellow pages of the telephone book or community bulletin boards for help in finding child care services. Comprehensive resource and referral programs can facilitate this process by linking parents with appropriate child care providers and by offering other valuable services to a community's child care system. While a growing number of employers now pay for resource and referral services for their employees, the vast majority of employers provide no assistance for this purpose.

The Committee believes that a stable resource and referral system that is available to all parents in a community requires a public funding base. Unfortunately, the majority of states do not provide any state funding for resource and referral. The existing federal program, the State Dependent Care Development Grants Act, is not child care specific. Moreover, this program only covers initial program start-up costs, and appropriations for the program have been severely limited in the recent past.

Section 12 of the Act requires the lead agency in each state to identify resource and referral organizations to ensure that parents in all geographical areas of the state have access to such services. Funds for these organizations are included in the 10 percent of funds set aside in the Act for activities related to child care quality. Operated by public or non-profit community-based organizations, these resource and referral programs will identify existing child care services, provide parents with help in locating services appropriate to their families' needs, and provide or arrange for information, training and technical assistance to child care providers in the community. These organizations will also gather and update specific information on all types of eligible child care providers (including family day care providers and those who provide services to handicapped children), the costs of available child care programs, the availability of child care subsidies, the locations in which child care services are provided, transportation to such locations, and the hours during which such services are available.

TRAINING AND TECHNICAL ASSISTANCE

The Committee notes that provider training has been identified by child development experts as a key factor in the quality of child care services. Research indicates that well-trained caregivers in both centers and family day care homes provide children with more social stimulation and responsiveness than do other caregivers. Pre- and inservice training is especially important in areas such as first aid and child abuse detection as well as in special practices designed to address the problems of children with special needs. Unfortunately, only 26 states now require continuing training for teachers while they are employed in child care centers. Twenty-two states require no training before teachers begin working in child care settings. Forty-two states require no preservice training for family day care providers.

Not later than 2 years after the date of enactment of the Act, each state receiving funds must ensure that all individuals providing licensed or regulated child care services complete at least 40 hours of training every two years in several key areas. The Committee believes this is a modest requirement—less than 2 hours of training per month, per provider—especially since states will have two years to implement the requirement. States may allocate funds from the 10 percent set aside for activities related to quality for the training services.

The states will make grants to, or enter into contracts with, public or private non-profit organizations to carry out the actual training services. The training should be in key areas such as the essential components of health and safety, procedures to ensure the

optimal development of children, and family support services. Training should also encompass the needs of special populations of children, including those with handicapping conditions, abused and neglected children, migrant children, and children with limited English language proficiency.

In order to increase the number and quality of family day care services, the Committee has also included in the Act special provisions to meet the training needs of these providers. Services for family day care providers should include the recruitment and training of new providers, the establishment of resource centers to make available developmentally appropriate curriculum materials, grants to purchase moderate cost equipment, and a system of substitute caregivers. Family day care providers will also be assured of help in understanding and complying with state and local regulations and tax policies.

MINIMUM NATIONAL HEALTH AND SAFETY STANDARDS

States must ensure that all child care providers receiving assistance under the Act are licensed or regulated under State law and meet any State and local requirements applicable to the type of child care services they provide. Four years after the Secretary establishes the minimum national health and safety standards provided for in section 18, the states must also ensure that all providers receiving assistance under the Act or under other publicly assisted child care programs comply with this limited set of quality standards. Should a state require more time to comply with one or more of the standards, a variance mechanism included in the legislation permits the Secretary to grant a one or two year extension for the state's compliance with the standard(s). These minimum standards are restricted to a small number of key categories and will be different for child care centers, family day care homes, and group home child care settings. Once a state ensures compliance with the minimum federal standards, its state matching requirement will be reduced from 20 to 15 percent of federal funds. From the outset, the Act permits the states to use funds appropriated under the Act to help providers comply with the minimum standards and to ensure enforcement of the standards and state licensing provisions.

The Committee expressed its concern earlier in this report about the nation's lack of rigorous and uniform health and safety standards for child care services. Based on available data and testimony presented to the Committee, the Committee has concluded that there exists a remarkable degree of consensus among national experts in child care and early child development about what these standards of quality are and what the requirements within each category should be. For example, the National Association for the Education of Young Children (NAEYC) and the Child Welfare League of America (CWLA), two preeminent child development organizations, have established model standards of quality that are remarkably similar both in scope and content. The Department of Defense has promulgated mandatory standards for child care services on military installations which cover areas very similar to those recommended by these national professional organizations.

At the same time, while child care experts clearly agree on the key indicators of quality for child care services, the nation's system of state-promulgated regulations is a confused patchwork of divergent standards in many of these categories. Some states have no requirements in one or more of these important categories of standards, while other state standards are set well below those recommended by the national child care experts. The Committee intends for the Act to build on the experience and expertise of the professional child development experts through the establishment of a National Advisory Committee on Minimum Child Care Standards. The advisory committee will establish minimum national standards for child care providers receiving public funds, only in those key categories of quality identified by the experts as most essential. The intent of the Act is to provide a minimum floor of health and safety for as many children as possible, regardless of their geographic location or family income.

When the federal government provides assistance for certain activities, it has a solemn duty to the American people to ensure strict accountability for the funds. In this connection, the Committee takes very seriously its responsibility to ensure that federal funds do not subsidize child care services when safety and quality cannot be determined. Thus, the Committee has invoked the long established precedent in federal law for achieving improvements in program quality by tying federal assistance to recipients' compliance with certain standards. Precedents include the minimum performance standards tied to the Head Start program, the quality of care and staff training standards tied to federal assistance for nursing homes, and the speed limits and minimum drinking age requirements tied to federal highway funds.

Not later than 60 days after the date of enactment of the Act, the Secretary will establish the National Advisory Committee on Minimum Child Care Standards. The advisory committee will be composed of 20 members appointed by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives. Members of the advisory committee will include representatives of the nation's governors, representatives of state legislatures, representatives of state insurance commissioners, representatives of local governments, representatives of the business and religious communities, parents, representatives of different types of child care programs, resource and referral organizations, child care and child development experts, pediatricians, child care employees, and those involved in the regulation of child care services. The advisory committee will propose the minimum standards to the Secretary not later than 180 days after the appointment of a majority of its members.

Not later than 90 days after receiving the advisory committee's recommendations, the Secretary will publish the proposed minimum standards in the Federal Register for a 60-day public comment period and will distribute the proposed standards to each lead agency and each State subcommittee on licensing for comment. The Secretary will then consider public comments (in consultation with the advisory committee) and issue rules establishing the standards within 120 days of the close of the comment period.

The Committee wishes to emphasize that the National Advisory Committee on Minimum Child Care Standards is in no way a regulatory or licensing entity. The advisory committee will propose only the limited number of minimum health and safety standards provided for in the Act and will disband 90 days after the Secretary establishes the standards based on the advisory committee's recommendations. The states will then be responsible for implementing the standards in conjunction with their existing licensing and regulatory authorities.

The Committee believes that the national standards provided for in the Act represent a minimum floor of health and safety for children in child care settings. The standards applicable to child care centers are limited to maximum group size, maximum appropriate staff-child ratios, qualifications and background of child care personnel, health and safety requirements for children and caregivers, and parental involvement. The standards for family day care providers are limited to the maximum number of children and the total number of infants for whom child care services may be provided, the minimum age for caregivers, and health and safety requirements for children and caregivers.

In providing for these standards in the Act, the Committee selected only the most essential indicators of health and safety for different types of child care services. Recommendations concerning the actual content of the standards in most of these areas has been left to the national advisory committee of experts in the field. However, in the cases of maximum group size and staff-child ratios for child care centers, the Act requires that the standards reflect the median standards for all states as of the date of enactment of the Act. This is the same approach utilized by the Department of Defense in setting child care standards for group size and ratios that apply to services provided on military installations.

While the Committee wishes to defer to the national advisory committee of experts on the actual requirements for each standard, certain components may be readily identified. For example, the Committee expects that the health and safety requirements will include immunizations for children and caregivers, handwashing for providers after diapering and before preparing food, health records maintenance for children, adequate fire detection and evacuation procedures, and procedures for evaluating safe playground equipment. In addition, the Committee expect that the qualifications and background of child care personnel will include training in first aid and cardiopulmonary resuscitation, minimum preservice training requirements, minimum academic or competency-based credentials, and criminal record tracing procedures.

FEDERAL ADMINISTRATION AND ENFORCEMENT

The Committee wishes to emphasize that the federal government will have an extremely limited role in the administration and enforcement of programs conducted under the Act. Consistent with the state plan provided for in section 7, the states will have broad flexibility to allocate funds for direct payments for child care services as well as for those activities designed to increase the availability and quality of child care services. The states will have ex-

clusive responsibility for all licensing and regulatory activities. The Committee notes that the Congressional Budget Office (CBO) cost estimate for the Act assumes federal administration costs of $8 million per year (including the cost of the National Advisory Committee on Minimum Child Care Standards), or approximately three tenths of one percent of the total annual appropriation assumed for the purposes of CBO's estimate.

There is currently no federal office or agency with sole responsibility for federal child care programs. Because the Committee believes it is essential to ensure better coordination of services in this area, it has provided in the Act for the establishment of the position of Administrator of Child Care in the Department of Health and Human Services. The Administrator will coordinate all child care activities of the Department and will coordinate the Department's programs with those of other federal agencies. The Administrator will also collect and publish annually state child care standards, evaluate the activities conducted with funds provided under the Act, collect and disseminate materials related to child care training and salaries, and provide technical assistance to the states to help them comply with the requirements of the Act. The Administrator will serve at the pleasure of the Secretary and may be an individual who holds another position in the Department.

The Secretary will review and monitor state compliance with the Act and the state plan approved under section 7. If the Secretary finds, after reasonable notice and opportunity for a hearing, that a state has failed to comply with the requirements of the state plan, the Secretary will notify the state of the finding. No further payments to the state may be made until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected. The Secretary may also impose other appropriate sanctions on the state. The Secretary will establish rules to delineate procedures for receiving, processing, and determining the validity of complaints concerning compliance with the state plan and the requirements of the Act.

LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES

Section 19(a) prohibits an entity receiving any of the forms of financial assistance provided under this Act (e.g., grants, contracts, loans, or child care certificates) from using such assistance for any sectarian purpose or activity, including sectarian worship and instruction. This section is intended to ensure that all child care programs receiving funds under this Act are nonsectarian, whether or not a sectarian institution operates the program.

Under a narrow, technical interpretation of this prohibition, one could argue that sectarian activities are permitted in a child care program funded under this Act, so long as no financial assistance under this Act is used for the sectarian activities. The Committee expressly rejects such a narrow, technical interpretation of section 19(a). On the contrary, the Committee adopts a broad interpretation of the prohibition in section 19(a). Under the Committee's broad interpretation, an entity receiving any form of financial assistance under this Act shall not include any sectarian activities, worship or instruction in providing child care services under this

Act. Section 19(a) embodies the Committee's intent that all aspects of child care services provided by an entity receiving financial assistance under this Act be completely non-sectarian in nature and in content. The Committee expresses no view concerning whether the restriction in Section 19(a) is constitutionally required by the Establishment Clause.

NONDISCRIMINATION

Section 20(a) provides that any financial assistance provided under this Act, including a loan, grant, contract, or child care certificate, shall constitue federal financial assistance for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972 (U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

Although specific mention of the statutes is not necessary in a funding program to trigger coverage, this section makes explicit that receipt by an entity of any of the forms of financial assistance provided under this Act invokes Title VI, Title IX, Rehabilitation Act, and Age Discrimination Act coverage, even if the financial assistance may not necessarily confer sufficient economic benefit to the entity for other purposes, see, e.g., *Everson* v. *Board of Education*, 330 U.S. 1 (1947), or the child care services would not be considered "educational" in another context. This provision therefore ensures that discrimination on the basis of race, national origin, sex, disability and age is prohibited by entities receiving federal financial assistance under this Act.

Section 20(b) includes new restrictions on discrimination in admissions and employment on the basis of religion. These restrictions should not be construed to modify or affect any other federal law or regulation that relates to employment discrimination on the basis of religion, except as specifically provided in this section.

Section 20(b) specifically provides that if a child care provider receives assistance under this Act, it may not discriminate on the basis of religion in the hiring of employees whose primary responsibilitly will be working directly with children. Likewise, no child care provider receiving assistance under this Act my discriminate on the basis of religion in the admission of a child to the child care program.

If a child care provider assisted under this Act receives 80 percent or more of its budget under a state or federal program, the grant or contract relating to the ABC assistance, or the employment and admissions policies of the provider, must specifically provide that no person with responsibilities in the operation of the child care program will discriminate on tne basis of religion in admissions or the hiring of employees whose primary responsibility will be working directly with children.

When a child care provider receives assistance under this Act, but receives less than 80 percent of its budget from public sources, if two or more prospective employees are qualified for a position, nothing in section 20(b) prohibits the child care provider from hiring a prospective employee who is already participating on a

regular basis in other activities of the organization that owns or operates the child care provider. Nor does this section prohibit a child care provider receiving less than 80 percent of its budget from public sources from selecting a child for a child care slot that is not funded under section 8(a) of this Act on the basis of the fact that the child or her family members participate on a regular basis in other activities of the organization that owns or operates the child care provider.

The Committee is aware that many schools give preference for before and after school child care services to students enrolled in their regular school programs. Section 20(b) is not intended to affect the practice of any school in admitting students to its regular school program. If a before and after school child care provider receives less than 80 percent of its budget from public sources, section 20(b) is not intended to prohibit the provider from admitting a child to a slot that is not funded under section 8(a) on the basis of the fact that the child is enrolled in the school's regular instructional program.

The provisions in section 20(b) relating to employment apply only to hiring decisions of the child care provider made after the date of enactment of this Act.

CERTIFICATES

Section 8(a)(1)(c) and (2) of the Act permits states to establish a program that will provide child care assistance to parents through a system of child care certificates for the purchase of child care services from both public and private child care providers. The Committee views the use of such certificates, given its context of aid to a substantially non-public system of service-providers, to be significantly different from the use of certificates in this nation's predominantly public system of elementary and secondary education. The authorization for certificates in this Act should not be considered a precedent for certificates or vouchers to be used in the elementary and secondary education context, which the Committee has opposed in the past and continues not to favor. The Committee intends that the certificate system established under this Act will provide no basis for the establishment of a voucher system affecting the nation's existing elementary and secondary education school systems or for changing the way in which federal aid is, or will be, provided to such elementary and secondary education systems in the future.

The Committee also wishes to clarify that it intends to subject federal financial assistance in the form of child care certificates to the same restrictions required for grants and loans provided under this Act.

VI. Votes in Committee

On March 15, 1989, the Chairman of the Committee on Labor and Human Resources, Senator Kennedy, convened on Executive Session of the Committee on Labor and Human Resources to consider S. 5.

The Committee adopted an amendment offered by Senator Dodd to section 20 of the bill (Nondiscrimination) by rollcall vote, 15–0.

YEAS
Kennedy
Pell
Metzenbaum
Matsunaga
Dodd
Simon
Harkin
Adams
Mikulski
Hatch
Jeffords
Coats
Thurmond
Durenberger
Cochran

The Committee adopted by voice an amendment offered by Senator Kennedy making technical clarifications to the provision on child care certificates. At his request, Senator Durenberger was recorded as negative with respect to this amendment.

The Committee adopted by voice an amendment offered by Senator Kennedy increasing the fiscal year 1990 authorization for the Head Start Act to $1,552,000,000.

The Committee rejected by voice an amendment offered by Senator Coats for a sense of the Senate resolution regarding tax credits for child care.

The Committee rejected an amendment offered by Senator Coats to replace minimum health and safety standards for child care with model standards, by rollcall vote, 6–9.

YEAS	NAYS
Hatch	Kennedy
Kassebaum	Pell
Coats	Metzenbaum
Thurmond	Matsunaga
Durenberger	Dodd
Cochran	Simon
	Harkin
	Adams
	Mikulski

The Committee rejected an amendment offered by Senator Coats to provide that parents have sole discretion in selection of child care funded under the bill, by a rollcall vote, 4–10.

YEAS	NAYS
Coats	Kennedy
Thurmond	Pell
Durenberger	Metzenbaum
Cochran	Matsunaga
	Dodd
	Simon
	Harkin
	Adams
	Mikulski

Hatch

The Committee voted to adopt and report S. 5 as amended, as an amendment in the nature of a complete substitute, by rollcall vote, 11-5.

YEAS	NAYS
Kennedy	Kassebaum
Pell	Coats
Metzenbaum	Thurmond
Matsunaga	Durenberger
Dodd	Cochran
Simon	
Harkin	
Adams	
Mikulski	
Hatch	
Jeffords	

VII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 28, 1989.

Hon. Edward M. Kennedy,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 5, the Act for Better Child Care Services of 1989, as ordered reported by the Senate Committee on Labor and Human Resources on March 15, 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 5.
2. Bill title: Act for Better Child Care Services of 1989.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on March 15, 1989.
4. Bill purpose: This bill would establish and authorize through 1994 a new federal program providing grants to states for improving child care services. At least 70 percent of the state grants would be used to provide child care assistance on a sliding-fee-scale basis to families with incomes below 100 percent of state median income. The remaining funds would be used to improve child care services through expanding resource and referral systems, enforcing licensing requirements, increasing training and salaries for child care staff, providing funds for public-private partnership activities, making grants or low-interest loans to providers for renovations and improvements, and making other changes. The bill would also authorize grants to states for forming child care liability

risk retention groups, and it would increase the 1990 authorization level for the Head Start program.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Child care grant program:					
Authorization level	2,500	2,608	2,714	2,826	2,942
Estimated outlays	750	2,790	2,884	2,768	2,882
Federal administrative costs:					
Estimated authorization level	8	8	8	8	8
Estimated outlays	7	8	8	8	8
Liability risk retention groups:					
Authorization level	100				
Estimated outlays	10	30	-30	30	
Increase in Head Start Program:					
Authorization level	147				
Estimated outlays	66	71	10		
Bill total:					
Estimated authorization level	2,755	2,616	2,722	2,834	2,950
Estimated outlays	833	2,899	2,931	2,806	2,890

These costs would fall within function 500.

Child Care Grant Program

The bill would authorize appropriations of $2.5 billion for state grants for child care services in 1990, and of such sums as may be necessary through 1994. Estimated levels for the such sums authorizations are the 1990 level, adjusted for projected inflation. Grants would be allocated to each state on the basis of its population under five years of age and its participation in the National School Lunch program. In order to receive grants, states would be required to have a four-year state plan for implementing the Act's many requirements. States would be required to provide 20 percent of total program funding. States would be allowed to use up to 8 percent of their federal allotment for administrative costs, including up to 1 percent in the first year for planning grants. Child care services would be provided through contracts with providers, grants to local government units, or distribution of child care certificates to eligible families. States would be allowed to expend their grants for each fiscal year over a two-year period.

Outlay estimates assume full appropriation of authorized amounts. Spending was assumed to follow spending patterns of comparable state grant programs administered by the Department of Health and Human Services. Spending was reduced in the first year, reflecting the expected lead time for states to structure their programs.

Federal administrative costs

The bill also would create an Administrator of Child Care. This office was assumed to cost $7 million in 1990, based on the average cost of administering other state grant programs within the Department of Health and Human Services. These costs were increased in 1991–1994 due to projected inflation. An additional $1

million cost was added in 1990 and 1991 to support a National Advisory Council on Child Care Standards.

Liability risk retention groups

The bill would authorize $100 million for state grants for forming child care liability risk retention groups. Such groups would assist licensed providers in obtaining affordable liability insurance. The funds are authorized to be appropriated in 1990, with funds remaining after 1990 available in 1991 and 1992. State allotments would follow the same formula as the more general child care grants. States applying for these funds would be required to specify how the child care liability risk retention group would continue to be financed after fiscal year 1992.

First year outlays from the $100 million authorization are expected to be low. State applications for funds may come in slowly, as states take time to consider the feasibility of forming child care liability risk retention groups. Interest in forming such groups may be low in some states, particularly in states that have discontinued earlier programs of more limited forms of market assistance. If some states do not apply for funds, their funds would probably not be re-allocated until 1992, allowing spending to occur through 1993, because grants in any fiscal year may be expended over a two-year period.

Head Start Program

Finally, the bill would raise the 1990 authorization level for the Head Start program from $1,405 million to $1,552 million. Current authorization for the program expires on September 30, 1989. Outlay estimates assume full appropriation of the new authorization level and continuation of the current spending pattern of the program.

6. Estimated cost to State and local government: In order to receive the $2,500 million Federal child care grants, states would be required to provide $625 million, or 20 percent of the total, from public or private non-Federal funds. The match rate would be reduced to 15 percent once a state demonstrates that all publicly funded child care assistance meets the newly established federal child care standards, as well as state and local regulations. States not meeting such standards after the four-year period from the issuance of the standards would lose eligibility for grants under this Act. States would be allowed to use up to 8 percent of their state grants to develop and administer their state plans.

States applying for grants for forming liability risk retention groups would have to arrange financing after fiscal year 1992, including financing through contributions by the state or by members of the groups. States could use up to 10 percent of the funds for liability risk retention groups for administrative costs.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Julia B. Isaacs and Michael Namian.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

VIII. Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the following statement of the regulatory impact of S. 5 is made.

A. ESTIMATED NUMBER OF INDIVIDUALS AND BUSINESSES REGULATED AND THEIR GROUPS OR CLASSIFICATIONS

It is estimated that 18 million children will be eligible for assistance under the Act by virtue of their families' meeting the income eligibility threshold. It is difficult to estimate precisely the number of children actually affected because the states have broad discretion to allocate funds. The Act simply requires that no funds go to families whose incomes exceed 100 percent of the state median income, that priority be given to families with very low incomes, and that sliding fee scales be utilized. Informal estimates indicate that approximately 1 million children will receive direct assistance under S. 5.

State discretion in the allocation of funds also makes it impossible to estimate the number of businesses affected. Many businesses will benefit because their employees will be eligible for direct assistance under S. 5. Businesses that operate or are affiliated with non-profit or for-profit child care providers will benefit because S. 5 makes funds available for the establishment of new child care programs and for renovating of existing facilities to meet health and safety standards. Businesses and their employees will also benefit generally from funds provided under the Act for resource and referral programs and for training and technical assistance for child care providers.

B. ECONOMIC IMPACT ON THE INDIVIDUALS, CONSUMERS AND BUSINESSES AFFECTED

The Committee expects this legislation to have a positive economic impact on the individuals, consumers and businesses affected. S. 5 will provide direct assistance to low-income families to help them find and pay for quality child care services. Thus, S. 5 will generally serve to increase the disposable income of low-income families receiving funds under the Act and will assist the unemployed and recipients of public assistance in moving into productive employment. Businesses will benefit greatly from the provision of child care assistance to their employees and from the establishment of a child care infrastructure which will assist employers and employees in locating quality and affordable child care.

Concerns have been raised that the minimum federal standards for publicly-assisted programs included in the Act might raise the costs of child care services. The Committee finds no evidence that this will be the case, especially since a significant amount of funding will be made available to states to assist them in complying with the standards. The Commission also expects that, as the minimum federal standards are implemented nationwide, market forces and economies of scale for existing providers will serve to negate any initial effect on cost which the standards may have. Based on testimony presented before the Committee, the Committee also expects that the minimum standards will have a favorable impact on

the cost of child care services generally by helping to reduce the costs and increase the availability of liability insurance for child care providers.

C. IMPACT OF THE ACT ON PERSONAL PRIVACY

The Committee expects that this legislation will have no significant impact on personal privacy. In order to be eligible for direct assistance, families will make available information on their incomes; such a requirement, however, is consistant with any public program which requires a means test for eligibility. In order to be eligible for assistance under the Act, child care providers will be reuired to comply with existing state licensing and regulartory requirements and, after 4 years, with the minimum federal standards. The enforcement of the licensing and regulatory requirements rests in large part with the states and will have no greater impact on personal privacy than any other federal law which includes performance standards as a condition of eligibility.

D. ADDITIONAL PAPERWORK, TIME AND COSTS

It is difficult to estimate the volume of additional paperwork necessitated by the Act, but the Committee does not believe it will be significant. Additional paperwork required at the federal level will be minimal, since administration of the Act is primarily a state responsibility. The main federal responsibility is to ensure that states comply with their 4-year plans, which they are required to submit in order to be eligible for assistance. Most states and licensed child care providers already maintain the necessary records and administrative procedures needed to comply with state licensing, regulatory and eligibility requirements. The Committee expects that the states will gradually incorporate procedures necessary to ensure compliance with the minimum federal standards into their existing licensing and regulatory structures.

IX. Section-by-Section Analysis

Section I—Short title and table of contents.

This section provides for the Act to be cited as the "Act for Better Child Care Services of 1989".

Section II—Findings and purposes

This section outlines the findings and purposes of the Act.

Section III—Definitions

This section defines the terms used in the legislation. The term "eligible child" limits eligibility for assistance under this Act to children whose family income does not exceed 100 percent of the state median income for a family of the same size. Other definitions include "family child care provider", "center-based child care provider", "group home child care provider", and "units of general purpose local government". "Eligible child care provider" is defined as any provider which meets applicable standards and state licensing requirements or a relative of a child if the relative is 18 years of age or older and is neither the grandparent, aunt or uncle

of such child. Tribally controlled community colleges are included in the definition of "institution of higher education".

Section IV—Authorization of appropriations

This section authorizes $2.5 billion for FY90 and "such sums" for FYs 1991–94 for the Act for Better Child Care Services (ABC). For the Child Care Liability Risk Retention Groups described in Section 22, this section authorizes $100 million for FY90 only. These funds would remain available for assistance to the states through 1992.

Section V—Allotments

The section provides for the allotment of funds among states. The distribution formula is based on the total number of children under age 5 in the state, the total number of children in the state eligible for free and reduced price lunches, and the per capita income of the state. The provisions related to the funding of Indian tribes specify that at least 1.5 percent will be reserved for this purpose, that funds are to be awarded competitively among tribes, and that Indians residing in the states of Oklahoma, Alaska, and California (where there are no reservations) are eligible to apply.

Section VI—Lead agency

This section provides that the Chief Executive Officer of a state desiring to participate in the ABC program designate a "lead agency" to administer the program, assess the child care needs and resources in the state, develop the state plan, and coordinate child care services. This section also establishes Local Advisory Councils designed to ensure better and more coordinated child care services at the local level.

Section VII—Application and State plan

This section provides that, in order to receive funds under the Act, states must submit a four-year plan to the Secretary of Health and Human Services describing how the requirements of the Act will be met. The requirements of ABC include: that 70 percent of the state allocation be used for direct child care services on a sliding fee scale basis (with priority given to families of very low income), that policies be in place to ensure parental selection of the form of care for their children, that 10 percent of the state's funds be used for activities to improve the quality of care, that 12 percent of the state's allocation be used for activities to increase the availability of care, and that the state develop procedures to comply with the Act's licensing and regulatory requirements. This section also: outlines that the minimum federal standards in the Act apply only to publicly-assisted child care programs; ensures an equitable geographic distribution of funds between rural and urban areas in each state; provides that existing state funds spent for child care will count toward the state match; allows states to modify state standards if the modification is based on a positive developmental practice; and outlines the scope of parental involvement in programs receiving priority under the Act.

Section VIII—Special rules for use of State allotments

This section specifies that states may distribute child care funds on behalf of eligible children through certificates to parents, or through grants or contracts with providers. Units of general purpose local government may receive grants from a state to contract for child care services with eligible providers. This section also contains a provision establishing the conditions under which a child care provider may receive assistance for minor repair and renovation of facilities.

Section IX—Planning grants

This section authorizes the Secretary to award planning grants to states in an amount not to exceed one percent of their allotment to assist them in preparing the four-year plan required by the Act.

Section X—Continuing eligibility of States

This section provides that four years after the Secretary establishes the minimum federal standards, all providers receiving ABC or other public funds must be in compliance with those standards as well as applicable state licensing requirements in order for the state to remain eligible for assistance.

Section XI—State Advisory Committee on Child Care

This section requires that a state advisory committee on child care be established to advise the lead agency on child care policies, review and evaluate child care services within the state, and report on child care licensing policies. States have the option of establishing one or two advisory committees, as long as the functions of both are fulfilled. States are also permitted to use their existing state child care committees to comply with the requirements of the Act if they are "comparable" to the committees required under this legislation.

Section XII—Resource and referral programs

This section provides for the establishment of resource and referral programs within states to assist parents in locating child care, and to assist providers in obtaining training and technical assistance. Units of general purpose local government are included as potential recipients of funds. As part of the four-year plan set forth under Section 7, states must ensure that resource and referral services are available to parents in all geographic areas of the state.

Section XIII—Training and technical assistance

This section provides for the implementation of a minimum training requirement for child care providers and financial assistance for individuals seeking training. The training is designed to meet the needs of such special populations as children with handicapped conditions and abused and neglected children. Training scholarships may be made available only to low income individuals. States will have two years to phase in the requirement that all providers have 40 hours of training over a 2-year period.

Section XIV—Child care public-private partnership

This section outlines the public-private partnership activities eligible for funding under Section 7(c)(6)(C). These activities may include information dissemination and technical assistance, grants or loans for innovative child care programs, demonstration projects using unique public-private partnership models, and resource and referral activities. This section also provides for a Presidential Award for Progressive Management Policy designed to recognize and pay tribute to employers with outstanding family-oriented personnel programs and policies responsive to the child care needs of working parents.

Section XV—Federal administration of child care

This section establishes a child care administrator within the Department of Health and Human Services to administer the Act. At the discretion of the Secretary, this individual may be an existing employee of the Department with other departmental responsibilities.

Section XVI—Federal enforcement

This section provides for the Secretary to review state compliance with the state plan and establishes a procedure to follow if a state is found to be in noncompliance.

Section XVII—Payments

This section establishes the non-federal share for states participating in the program and provides that the state match will be reduced from 20 percent to 15 percent when a state implements the federal standards as required by Section 10.

Section XVIII—National Advisory Committee on Minimum Child Care Standards

This section provides for the establishment of a National Advisory Committee on Child Care Standards that will set minimum standards for health and safety in several key areas. A variance procedure for these standards permits a Governor to request of the Secretary a one-year variance for one or more of the standards for a particular geographic area of the state. The Secretary may grant a one-year extension of this initial variance period. This section also ensures that the nutritional requirements of the Child Care Food Program apply to child care services under this Act.

Section XIX—Limitations on use of financial assistance for certain purposes

This section provides that no financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

Section XX—Nondiscrimination

This section states that any financial assistance under this Act shall constitute federal financial assistance for the purposes of relevant civil rights statutes. This section also prohibits providers receiving ABC funds from discriminating on the basis of religion in

the admission of children and the employment of child care personnel. Nothing in this section prohibits a child care provider, under certain circumstances, from making admissions and employment decisions based on the participation of a child or prospective employee in other activities of the organization that owns or operates such provider.

Section XXI—Preservation of parental rights and responsibilities

This section states that nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Section XXII—Child Care Liability Risk Retention Group

This section authorizes the establishment of Child Care Liability Risk Retention Groups at the state level. Under this provision, states may apply to the Secretary for funds to establish risk groups to help improve the accessibility and affordability of liability insurance for child care providers.

Section XXIII—Head Start Act authorization of appropriations

This section increases the FY90 authorization ceiling under the Head Start Act from $1.405 billion to $1.552 billion.

X. Additional and Minority Views

ADDITIONAL VIEWS OF SENATOR HATCH

Despite reservations about certain aspects of this legislation, I co-sponsored the "Act for Better Child Care" (ABC) and voted for it in committee for several reasons.

First, I believe it is time for some federal leadership in the area of child care. As the majority report states, the statistics and trends indicating the increased labor force participation of women are very clear. I am concerned, as are other senators in both political parties, about the risks to our future generation given the current inadequate availability of safe, affordable child care.

Second, I agree that a comprehensive approach to the child care issue is required. In addition to a component providing tax credits for parents of young children—which I enthusiastically favor and I hope will be added at some point during the consideration of this legislation—a child care proposal should include provisions encouraging community and private sector efforts to increase the availability of child care as well as to increase parents' options and improve the overall quality of care. Programs to provide training for those individuals to whom we entrust our children are desirable. Expansion of current state efforts to provide resource and referral programs can help parents locate the kind of child care they want. Certainly we should help low-income families whose only alternatives are welfare, leaving their children alone, or leaving them with providers of questionable quality. The ABC Bill aims to address all of these needs.

I also believe it is important to emphasize what the ABC Bill does *not* do. The ABC Bill does not make the federal government a child care provider; it does not give the government a monopoly on child care; it does not prohibit participation by religious institution; and, it does not require the licensing of close relatives who provide care.

I do have serious concerns about the provisions mandating federal standards. While I appreciate the willingness of the bill's sponsors to modify the section on standards in an effort to make the implementation of federal standards less onerous, the fact remains that adherence to federal standards is still required as a condition for receiving funds under any publicly supported child care program.

Not only does the concept of a federal entity making rules which govern the provision of child care in Cedar City or American Fork, Utah, still bother me, but also the fact that federal standards in any form may have unintended adverse results. Stringent federal standards may actually lead to an increase in child care costs, the actual reduction of licensed child care slots, and the movement of otherwise qualified and often preferred family-based providers to

the underground economy. I have serious reservations about imposing federal standards, particularly when a standard may not be revised by the Secretary of Health and Human Services under a normal rulemaking procedure if it is found to be unworkable. I hope that the discussions on this matter can continue, and that other senators will share their suggestions for an ultimate solution to the problem of ensuring safe child care without unnecessarily hamstringing states, providers, and parents.

Section 19(a) provides that financial assistance under this Act shall not be expended for any sectarian purpose or activity, including sectarian worship and instruction. The objective of this language is, or at least should be, to ensure that funds provided under this Act in the form of direct aid not be used for such religious purposes that would not withstand scrutiny under the establishment of religion clause of the First Amendment.

The Committee report, however, adopts an extremely broad interpretation of this section which I believe raises serious questions insofar as this interpretation appears to limit or foreclosure aid otherwise permitted by the Constitution. It is my view, as set forth below, that the limitations contained in section 19(a) be interpreted as consistent with but not exceeding the requirements imposed on public aid to sectarian institutions by the Establishment Clause.

In this regard, the Committee report expressly applies the prohibitions of section 19(a) to indirect financial assistance, such as child care certificates provided for under this Act, so as to preclude the use if such inidrect assistance for any sectarian purpose or activity. I disagree with such a restrictive interpretation to the extent it goes beyond what is constitutionally required and thereby unnecessarily restricts the right of free parental choice.

Constitutional restrictions on direct public aid do not, I believe, apply to indirect aid such as the certificates in this Act even if pervasively religious organizations benefit. The reason is that such organizations receive such aid not as a result of govenmental action, but rather as a result of an intervening choice by the primary recipient, in this case the parent. Thus, in 1983, the Supreme Court in *Mueller* v. *Allen,* 463 U.S. 388, sustained a tax deduction for certain educational expenses although the great majority of beneficiaries were parents of children attending sectarian schools. In so doing, the Court concluded that, "(t)he historic purposes of the (Establishment) Clause simply do not encompass the sort of attenuated financial benefit, ultimately controlled by the private choices of individual parents, that eventually flows to parochial schools from the neutrally available tax benefit at issue in this case." Id. at 400. More recently, in *Whitters* v. *Washington Department of Services for the Blind,* 474 U.S. 481 (1986), the Court upheld a state grant to a blind person for use in training at a Bible college, concluding that "* * * it does not seem appropriate to view any aid ultimately flowing to the Inland Empire School of the Bible as resulting from state action sponsoring or subsidizing religion." The Court continued that "the mere circumstance that petitioner has chosen to use neutrally available state aid to help pay for his religious education (does not) confer any message of state endorsement of religion." Id. at 488–89.

Further, the Committee, in other respects as well, adopts a broad interpretation of section 19(a) so as to preclude an entity receiving funds under this Act from including sectarian activities in its child care services. I believe that section 19(a) means what it says: "No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction." The language of this section should be applied in a manner consistent with, but not beyond, the constitutional restrictions of the Establishment Clause as interpreted by the Supreme Court in *Bowen* v. *Kendrick,* 108 S.Ct. — (1988) and cases cited therein.

Obviously, I do not believe the ABC Bill is perfect. I would much prefer the enactment of the "Child Care Services Improvement Act" (S. 692/H.R. 1618) which is pending in the Senate Finance Committee. This bill is simpler and less structured than S. 5. It also contains a tax credit provision which would significantly benefit low-moderate income families with young children. But, if the section imposing absolute federal standards can be further modified to require state standards instead or to suggest that the federal standards be optional model standards, then I also do not believe that the ABC Bill is as bad as its organized detractors have portrayed it.

I firmly believe that it is time we look at these various proposals and provisions including the tax credit bill submitted by President Bush, on their merits. It is easy when considering policies dealing with children to get carried away in emotional arguments made by those on both sides of the issue. I urge senators to look at the ABC Bill objectively. They will note that it is substantially changed from the bill pending during the last Congress.

There is bipartisan agreement that the child care issue demands Congressional attention. I hope senators will use the reported version of S. 5 as an opportunity for crafting an even more comprehensive bill (by incorporating a broad-based tax credit provision,) for developing a workable program of assistance to the states, and for working in a bipartisan way toward solutions to the child dilemma facing millions of American families.

ORRIN G. HATCH.

ADDITIONAL VIEWS OF SENATOR DURENBERGER

Child care is a critical national concern, both for the welfare and enrichment of our children and for the competitiveness of our economy. Although I voted against S. 5, the Act for Better Child Care as it was passed out of Committee, I am personally committed to a comprehensive federal child care policy that both recognizes and addresses the needs of today's families for available, affordable, quality child care.

A NATIONAL PRIORITY WE CAN NO LONGER IGNORE

There is nothing more important than giving our children proper care and the tools they need to grow and live healthly, meaningful lives. Our children now make up the poorest segment of our society, with over one-fifth of today's children living in poverty. Child care is an essential part of the solution to helping poor families become self-sufficent. It is time that we reaffirm our commitment to the value we place on children and on the well-being of future generations.

For that reason, I commend Senator Dodd and members of the ABC coalition for their dedication to this issue and for bringing it to the forefront of America's political agenda. Without their leadership, I seriously doubt that we would have had over one-hundred child care bills introudced last session or have had virtually every elected official from the President of the United States to the members of local city councils and school boards participating in this debate.

NEW ISSUES, NEW IDEAS, AND NEW PLAYERS

Last session, I voted for cloture on the so-called "family bill" which included the Act for Better Child Care, the Parental and Medical Leave Act, and the Child Obscenity Enforcement Act. While I had several reservations about this bill at the time, I voted for cloture because I believe these issues were too important to be denied their due consideration before this body.

Partisan considerations intervened, however, and we were not able to take final action on child care or the other issues in the so-called "family bill" before we adjourned. The families and children of America will not accept partisan explanations for our inaction, however. And so the issue is again before us today.

This time, we have the experience of over a year of debate. From this debate, additional players and new, innovative ideas have emerged.

We have a new President who has expressed his deep commitment to this issue, and who has offered his own major child care proposal.

We also have several new bills introduced by a number of Senators and Representatives representing a wide array of the political spectrum including Senator Domenici, Senator Packwood and Senator Moynihan, and Representatives Hawkins and Holloway.

And, we have new issues added to the debate . . . issues like the role of the federal government in supporting those parents who choose to remain at home with their children when they are young; how employers can help meet the growing demands of their employees for assistance in meeting child care needs; and how early childhood development needs can be met, through expanded support for programs like Head Start and through assistance to parents themselves to help improve their skills.

PRINCIPLES FOR A BROAD AND LASTING FOUNDATION

All these factors add both urgency and opportunity to our task. Legislation which the Congress passes this year will be the foundation on which child care policy will be built for a decade or more. I believe we have both the opportunity and the obligation to today's families to build upon this broad foundation to both guide and support future steps we take to address this critical national problem. Unfortunately, however, I do not believe the ABC bill reported by the Labor and Human Resources Committee is the broad foundation we need to do that job right.

From the many proposals before us, I believe we must establish a set of principles that are essential to federal child care policy. I believe these principles must:

Recognize the financial needs of all low-income parents with children, not simply the needs of families with parents who work outside of the home.

Target low income families who need help the most by helping to expand access and options available to them.

Assist as many families as possible—within existing budgetary restrictions—by minimizing bureaucracy and maximizing coordination of existing programs.

Maximize parental choice in selecting from among quality child care arrangements, including the options of having child care provided by neighbors, relatives, and parents themselves.

Ensure quality of care provided in those settings that require governmental licensing.

Improve the day care profession—through greater attention to training and quality.

Improve the quality of child care provided in all settings, including care provided by neighbors, relatives, and parents themselves.

Avoid discrimination against church-based care.

Assist parents and employers meet changing work-family relations, and changing market conditions.

Encourage businesses and other employers to take greater responsibility for meeting the work-family needs of their employees.

EVALUATING S. 5 AGAINST THESE PRINCIPLES

One lesson of the last ten years is that more federal dollars, mandates and bureaucrats do not, in and of themselves, solve problems. Experience has also taught us that partnerships among different levels of government, the public and private sectors and community groups make the best use of scarce resources and produce the best product. And, we have learned that giving consumers the resources and information they need to make wise choices in the marketplace is the best way to both expand access and improve quality for many public services.

But, in applying many of these principles and lessons for what works in solving public problems, I have concluded that S. 5—as reported by the Committee—comes up short. In particular, I am troubled by my evaluation of S. 5 against the following five principles which I believe are necessary in laying the kind of broad and lasting foundation for national child care policy this country desperately needs:

1. Assist as many families as possible with meaningful levels of assistance by minimizing bureaucracy and maximizing coordination of existing programs

The ABC bill relies far too narrowly on new federal bureaucracy and doesn't give enough recognition and support to existing public and private programs in addressing child care problems faced by families. As reported by the Committee, the bill requires the creation of eleven new programs, committees, or agencies. Since—given today's budgetary constraints—it is unlikely that this legisation will be fully funded, I believe that resources will inevitably be spread too thin to do enough good or that states will be left holding the bag. The National Governors Association has mirrored my concerns in a letter to the Committee stating "The ABC bill, as currently written, would be extremely difficult for states to implement effectively due to its prescriptive nature and the numerous mandates that would be imposed upon the states."

At the same time, there are numerous examples across the country that show—given adequate resources and commitment—local communities can respond effectively to the child care crisis. They include the Minnesota Child Development program that builds on the strength of existing programs to provide child development services to families and children; and the California initiative developed by BankAmerica Foundation and funded by a public-private partnership of 33 organizations designed to address the shortage of licensed quality care providers by helping to recruit and train family day care providers. Rather than create new federal bureaucracies, we must have a federal policy that is supportive of these community and family efforts and that encourages others to become involved.

2. Coordinate work-family relations: Encourage business to take responsibility in meeting work-family needs

S. 5 does little to address child care as a workforce issue. We are all familiar with the fact that two-thirds of mothers with children under age 14 are in the workforce and that women now make up

almost half of this nation's employees. We are also familiar with the changing nature of the future workforce and what tighter labor markets will mean for workers trying to balance work and family responsibilities. As we develop the foundation for child care in this country, we cannot ignore employers and their role in meeting this challenge. Employers must be encouraged to help develop this partnership between the public and private sector as part of any fundation for national child care policy.

3. Recognize the financial needs of all low-income parents with children, not only the needs of parents who work outside of the home

The ABC bill ignores and discriminates against the contributions of millions of working families by not allowing assistance to parents who stay home to care for their child—often with considerable financial sacrifice. While 46 percent of young children have mothers employed outside of the home, it is important to recognize that an even larger number are cared for by mothers who are not employed outside the home. It is not appropriate for the federal government to make a distinction between these two groups and put parents who have made the decision to stay at home and care for their own children at an economic disadvantage. Federal policy should not discourage traditional parental care by making it an unfavorable economic option.

4. Do not discriminate against church-based Care

By using a direct funding approach, the ABC bill restricts the ability of parents to choose religiously affiliated child care services. Yet, churches are the single largest provider of formalized child care in the United States, supplying about one-third of all center-based care. Given this fact, I am afraid of what S. 5 would mean to the supply of child care services, especially in small, rural areas that are limited in their service options. Providing assistance through the tax code would avoid the Constitutional problems of ABC and would expand choice by allowing parents the option of sending their child to church-based care.

5. Target low-income and young children

Faced with today's budgetary realities, I believe it is necessary that we examine all legislation to ensure monies are targeted to individuals most in need, and that we are making the most efficient use of federal dollars. Even if fully funded, the ABC bill would help, at most, 800,000 of the 15.7 million children who have mothers who work outside the home—far fewer than the 6–7 million that many proposals under consideration would assist. I believe we can do better, most logically by targeting parents needing help the most—those with the lowest incomes and those with the youngest children.

THE NEED FOR A BI-PARTISAN, UNIFIED AND BROADLY-BASED APPROACH

My vote last year in favor of cloture on the so-called "family bill" was a strong statement on my part for the need for federal action to address the broad range of child care and family issues

facing this country. And, yet, for reasons outlined above, I do not believe that S. 5—as reported by the Committee—does the job right.

It is my hope that all those who share a common commitment to this issue will overcome political considerations and come together to agree on a set of principles that will act as the foundation for federal child care legislation. I realize that the time schedule of this legislation may make this task difficult. But, I also believe we owe it to the families and the children of this country to work together and develop a bipartisan agreement that will truly meet the needs of America's families.

I look forward to working with Senator Dodd and Senator Kennedy, with my colleagues on the Finance Committee, with the Administration, and with supporters of the ABC Bill and other child care proposals as we seek to achieve these goals together. Through bipartisan cooperation I believe we can pass legislation that will truly meet the needs of children and their families, both now and in the future.

MINORITY VIEWS OF SENATORS COATS, COCHRAN, AND THURMOND

Improving the quality, supply, and affordability of child care requires a concerted and integrated effort from all levels of government and the private sector. The main governmental responsibility for child care rests with the states. The federal government should use its resources to provide states with the support and flexibility necessary to improve the quality, supply, and affordability of child care for all families, particularly for lower-income families.

S. 5, the Act for Better Child Care Services of 1989 would authorize $2.5 billion in federal assistance for FY 1990, and "such sums as may be necessary" through FY 1994 for a program of formula grants to States for child care services.

Although we are committed to addressing the issue of child care and helping families with their child care needs, we believe the approach taken by S 5 is fundamentally flawed. We would like to outline a few of our concerns.

ABC DISCRIMINATES AGAINST NON-INSTITUTIONAL CHILD CARE

S. 5 would create a new multi-billion dollar program which inappropriately promotes center-based child care over other alternatives. We strongly believe Federal child care policies should enable all families, not the Government, to determine the most appropriate child care arrangements for their children.

ABC DISCRIMINATES AGAINST TRADITIONAL FAMILIES

S. 5 assumes that the traditional nuclear family is becoming obsolete and that institutional day care will inevitably become its substitute. In fact, only 46 percent of children under five have mothers who are employed outside the home. Less then one preschool child in three has a mother employed full-time, and less than one in five has a mother employed full-time throughout the year.

Furthermore, it is clear that traditional parental care of young children is not only the most common form of care but it is the overwhelmingly preferred form of care. Federal child care policy must not neglect the needs or overlook the contributions of working families who sacrifice the benefits of a second income to have a parent stay home to care for their young children. A federal child care policy must consider the needs of all parents with children, not just the needs of those who choose to work outside the home.

ABC WOULD IMPOSE COSTLY FEDERAL REGULATIONS ON VIRTUALLY ALL DAY CARE PROVIDERS

The quality and regulation of child care is a State, not Federal responsibility. We oppose the bill's creation of a National Advisory

Committee on Child Care Standards to develop mandatory Federal child care standards.

States differ in their ability to meet needs for child care, with supply of child care depending more on the health of each state's economy than on its child care needs per se. More and more states are enacting or revising child care standards, licensing requirements, and regulations. Some states have developed innovative responses to address existing gaps or problems in their child care systems, including enacting or improving existing state dependent care tax credits, establishing resource and referral agencies, and increasing the involvement of the private sector. Maintaining the regulatory role at the state and local levels will allow for ample state flexibility to address individual state needs while insuring parental involvement and control over important issues of quality.

Federal child care policy should encourage states to continue to develop and implement standards that are appropriate and beneficial to local communities. This is a role which properly belongs to state and local authorities, not the federal government. The federal government should assist states by providing resources necessary to carry out these objectives. It should support rather than supplant state initiatives.

ABC'S REGULATIONS WILL "SQUEEZE OUT" SMALL PROVIDERS, RAISE THE COST OF CHILD CARE, AND LIMIT PARENTAL CHOICE

Although the stated purpose of the ABC bill is to increase the quality and availability of child care services, its effect will likely be just the opposite. Imposition of federal standards upon state and local child care providers will mean extra costs to be borne by providers. An April/May 1988 study reported in the Child Care Review found that the regulations imposed on states by ABC would increase the cost of providing day care nationwide by $1.2 billion per year, with that cost eventually being borne on the shoulders of consumers.

Rather than increase access and availability of child care services, S. 5 would squeeze out small providers by imposing costly and restrictive Federal requirements on all publicly assisted child care and requiring States to license and regulate virtually all providers in order to be eligible for federal financial assistance. The likely result will be to increase the cost to parents for child care services, decrease the number of child care providers, and displace children now in out of home care. The effect of ABC may therefore be to hurt the very families the bill purports to help.

ABC DISCRIMINATES AGAINST SECTARIAN PROVIDERS

Close to one-third of all child care in the United States is provided by religious organizations. Yet, S. 5 severely limits and may even prohibit the participation of these providers. Section 19(a) of the bill prohibits the use of funds "for any sectarian purpose or activity, including sectarian worship and instruction." As broadly interpreted, this provision would not only restrict the use of Federal funds for sectarian purposes or activities, but it would also prohibit an entity receiving Federal financial assistance from using funds from other sources to exercise legitimate, constitutionally protected

First Amendment freedoms. Broadly interpreted, Section 19(a) would prohibit prayer and thanksgiving before meals, Bible-story-telling, religious coloring books, pictures, symbols or artifacts on walls or in rooms, Christmas or Hanukkah plays or songs.

Clearly, this restriction goes beyond what the Constitution requires. No other major Federal program providing support for child care programs—Headstart, Title XX and IV-B of the Social Security Act, and the Child and Dependent Care Tax Credit—appears to contain comparable restrictions.

According to a recent Wall Street Journal article, 70% of child care is provided in private residences. Because Section 19(a) applies to all "eligible child care providers", family day care providers, including grandparents who provide care in their homes, would be covered by this restriction as well. Presumably, all family providers, would have to remove or cover religious pictures or symbols, and would not be able to say a prayer or thanksgiving before milk and cookies in their own home.

Federal child care policy should respect the rights of parents to choose the most appropriate child care arrangement for their children. Parents should be able to use child care certificates at the child care provider of their choice, religious or otherwise.

ABC DISCOURAGES INFORMAL CHILD CARE ARRANGEMENTS

Three out of four pre-school age children are cared for by parents, relatives, neighbors or through other informal arrangements. By limiting funding for care provided by relatives and neighbors, S. 5 restricts the range of parental choice and discriminates against parents who choose informal child care arrangements. Federal child care policy should seek to expand, not restrict parental choice in child care.

SUMMARY

In conclusion, we oppose passage of S. 5 because it does not take into consideration the diverse needs and preferences of families with young children. Parents need more options, not less. We believe that parents want choice, not government bureaucracy. The child care needs of working families can best be met, therefore, by providing assistance to parents, not providers; through State and local regulations, not Federal standards; through community-based and private-public partnerships, not a Federal infrastructure; and by parental involvement and supervision, not Federally-mandated procedures. State, and not federal legislators are in the best position to mobilize employers, private child care providers, and parents to work together to maximize and improve upon existing resources. We will work toward development of a federal child care policy which embodies these principles.

ADDITIONAL VIEWS OF SENATOR KASSEBAUM

I am confident that the Act for Better Child Care is backed by the best of intentions. It has clearly made a great contribution by bringing attention to the problems facing working parents. At the same time, I cannot support the measure because of my concern that it is too costly, places too much emphasis on public sector support, and promises more than it can deliver.

In its first year, the ABC bill will cost $2.5 billion. This expenditure would be in addition to the roughly $6 billion the nation already spends on child care through the dependent care tax credit, Head Start, the child care food program, the state dependent care development grants, social services block grants, and job training programs. More importantly, it is proposed at a time when the budget deficit is expected to exceed $100 billion. While I sympathize with those parents struggling to balance the needs of career and family, I have been disappointed by the committee's unwillingness to acknowledge the necessity of considering this new spending program in the context of the budget. It is not enough simply to note that children should be our highest national priority. This ignores the fact that deficit spending can have very serious economic effects on children and families. Other programs competing for federal funding affect children as well.

Second, I am concerned that this ambitious attempt to establish an expensive federal presence in child care will ease the pressure on the private sector to address the needs of its employees. Because of a shrinking labor pool, employer competition over workers is expected to intensify in the 1990s. Two-thirds of these workers will be women. As a result, companies will need to be more innovative than ever in offering family-oriented benefits like child care. We should seek to encourage businesses to adapt to this change, not protect them from it.

Finally, there is some indication that ABC is enjoying broad public support because of the false hopes it has created among individuals expecting federal assistance. While it is estimated that 18 million children will meet ABC's age and income eligibility criteria, funding of $2.5 billion would fully subsidize less than 1 million full-time child care slots. I am deeply concerned that ABC's appearance of generosity is deceiving to the public.

For these and other reasons, I cannot support this proposal. It seems to me that a more modest expenditure designed to improve the quality and supply of child care and to eliminate the barriers to private sector provision of such services would do much to address child care problems without adding to the economic burden of deficit spending.

XI. Changes in Existing Law

In compliance with rule XXVI, paragraph 12, of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Head Start Act

(42 U.S.C. 9834)

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AUTHORIZATION OF APPROPRIATIONS

Sec. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,198,000,000 for fiscal year 1987, $1,263,000,000 for fiscal year 1988, $1,332,000,000 for fiscal year 1989, and [$1,405,000,000] *$1,552,000,000* for fiscal year 1990.

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